

## *Appendix 15-D*

*Comments Received on the First Nations Consultation Plan*

AJAX PROJECT

**Environmental Assessment Certificate Application / Environmental Impact Statement  
for a Comprehensive Study**

Comment and Response Tracking Table on the Ajax Project First Nations Consultation Plan

ID	Date of Comment	SSN Comment ID	SSN Comment on First Nations Consultation Plan	First Nations (SSN) Consultation Plan (Version/Reference (Section/Table/Page))	Proponent Response
1.	Letter dated February 2, 2015	1	<b>Tables 1 and 2.</b> The tables do not adequately describe the concerns expressed to date. Specifically, the concerns raised in the two submissions to the EAO should be included in the both tables, as well and the response on the Mitigation Responses submitted Jan. 29, 2015 and the Cultural Heritage Study (CHS), to be expanded.	Table 3-1 Key Issues and Concerns raised by SSN to Date (page 4), Version 1.5	Agree with comment. The Issues Table in the FNCP was updated to more adequately describe the key issues raised by SSN. The table was updated to include information from multiple sources including consultation, and information provided through the Preliminary Mitigation Responses and expansion of the Cultural Heritage Study.
2.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #1 Appendix B - #1	1	The "Valued component or Topic" in Table 1 do not accurately describe or summarise the perspectives and opinions raised by SSN during consultation, and KAM has never provided a formal response to SSN except by this table. For example, the following topics have been excluded, amongst many others: <ul style="list-style-type: none"> <li>• the destruction of Goose Lake</li> <li>• Governance and shared decision making</li> <li>• Impact Aboriginal economies</li> <li>• Impact on Biodiversity</li> <li>• Cumulative air emissions</li> <li>• Impact on Water quality and the Peterson Creek Watershed</li> <li>• Impact on Aboriginal rights and title</li> </ul> <u>Follow-up Comment June 10, 2015</u> <ol style="list-style-type: none"> <li>1. Both in the "perspectives on valued components" tables at the beginning of the document and in the list of consultation topics in table 8.1 (formerly table 3) at the end of the document, KAM has resisted including any mention of governance/shared decision making, Aboriginal economies, biodiversity, or the Peterson Creek Watershed. It is not clear why.</li> <li>2. PARTLY DONE: some attempt has been made to address some of the points below, but SSN concerns about Governance and shared decision making, impact on Aboriginal economies, and impact on biodiversity are not explicitly addressed anywhere (though biodiversity may be implicitly addressed in concerns about wildlife). SSN has proposed revisions to the AIRs to add the components in Pipsell and incorporation of this information and consultation with SSN thereafter should be added to the plan. <ul style="list-style-type: none"> <li>• The destruction of Goose Lake <b>Added to Table 2-1 under "Environmental"; not specifically addressed in the "KAM Response" section.</b></li> <li>• Governance and shared decision making <b>Not addressed anywhere in document</b></li> </ul> </li> </ol>	Table 3-1 Key Issues and Concerns raised by SSN to Date (page 4) , Version 1.5	Comments noted. The Issues Table (Table 3-1) in the FNCP was updated to more adequately describe the key issues raised by SSN and now includes the following issues: <ul style="list-style-type: none"> <li>• <i>Loss of parts of SSN traditional territory and potential effects to asserted Aboriginal rights and title</i></li> <li>• <i>Potential effects to Goose Lake which has cultural value and Changes in access to and use of preferred harvesting locations (e.g. Jacko Lake, Goose Lake)</i></li> <li>• <i>Potential negative effects to waterbodies such as Jacko Lake, Peterson Creek, and the Thompson River from changes in surface and groundwater quality/quantity or potential contamination from acid rock drainage</i></li> <li>• <i>Potential cumulative effects resulting from the Project and other industries/ developments in the Project area overlapping SSN's Territory (including cumulative air emissions)</i></li> </ul> The Issues Table is now divided by rows for ease of reference. KAM will continue ongoing dialogue with SSN regarding governance and shared decision making, impacts on Aboriginal economies, and impacts on biodiversity to gather additional detail on these concerns. As a greater understanding is developed, the issues will be incorporated into the Application and the Issues Tracking Table, as appropriate. It should be noted that the determination of valued components that will be included in the Application/EIS is part of the AIR/EIS Guidelines development process, which is led by BC EAO and CEA Agency. Moreover, comments raised with respect to the draft AIR are documented in detailed AIR/EIS Guidelines Issues Tracking Table and include SSN's input, as well as KAM's responses and the actions taken. These tables will be available on BC EAO's electronic Project Information Centre (e-PIC): <a href="http://a100.gov.bc.ca/appsdata/epic/html/deploy/epic_project_doc_list_362_p_pub.html">http://a100.gov.bc.ca/appsdata/epic/html/deploy/epic_project_doc_list_362_p_pub.html</a> .

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			<ul style="list-style-type: none"> <li>Impact Aboriginal economies <b>Not addressed anywhere in document</b></li> <li>Impact on Biodiversity <b>Not addressed anywhere in document</b></li> <li>Cumulative air emissions <b>Added to Table 2-1 under “Environmental” ; not specifically addressed in the “KAM Response” section.</b></li> <li>Impact on Water quality and the Peterson Creek Watershed <b>The Peterson Creek “watershed” is not mentioned anywhere, but Peterson Creek is (and was) in Table 2-1 under “Environmental”</b></li> <li>Impact on Aboriginal rights and title <b>this was already in Table 2-1 under “Social” which is not sufficient. Current and traditional Aboriginal Rights and Title need to be addressed in the plan.</b></li> </ul> <p>For both tables, the statement that “KAM adjusted the GA in response to input from SSN” is not a true statement. The GA was adjusted and announced publically without input being sought from SSN. It is also not a true statement that KAM has provided SSN with an opportunity to pre-view proposed work. <b>DONE - removed the statement</b></p> <p>At p. 6, the last bullet under “Economic”, 3.1 of the Capacity Agreement contemplates that the parties will commence monthly negotiations until the Application for the Project is filed towards a Project Agreement. This should be added to the table. <b>DONE - added</b></p> <p>At p. 6 “Social”, it should be added that KAM be committed to incorporating feedback into its GA and Project design and operations. <b>DONE - with the qualification of “where appropriate” which is not acceptable to SSN.</b></p> <p>Generally, all line items should be divided by rows for ease of reference. <b>NOT DONE - but this is really a minor request on our part</b></p>		
3.	Letter dated February 2, 2015	1	For both tables, the statement that “KAM adjusted the GA in response to input from SSN” is not a true statement. The GA was adjusted and announced publically without input being sought from SSN. It is also not a true statement that KAM has provided SSN with an opportunity to pre-view proposed work.	Not applicable	Comment noted. This text has been removed from the First Nations Consultation Plan.
4.	Letter dated February 2, 2015	1	At p. 6, the last bullet under “Economic”, 3.1 of the Capacity Agreement contemplates that the parties will commence monthly negotiations until the Application for the Project is filed towards a Project Agreement. This should be added to the table.	Table 3-1 Key Issues and Concerns raised by SSN to Date (page 4) , Version 1.5	Comment noted. A new table documenting the concerns of SSN is presented on page 4 (Table 3-1) and reference to the Capacity Agreement is no longer included.
5.	Letter dated February 2, 2015	1	At p. 6 “Social”, it should be added that KAM be committed to incorporating feedback into its GA and Project design and operations.	Table 3-1 Key Issues and Concerns raised	Comment noted. A new table documenting the concerns of SSN is presented on page 4 (Table 3-1) and reference to the GA is no longer included in the response.

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				by SSN to Date (page 4) , Version 1.5	
6.	Letter dated February 2, 2015	1	Generally, all line items should be divided by rows for ease of reference.	Table 3-1 Key Issues and Concerns raised by SSN to Date (page 4) , Version 1.5	Agree with comment. The tables were revised to ensure that line items correspond clearly to the issues raised and KAM's response.
7.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #2	2	<b>Regulatory Process</b> (p. 11 and section 4), SSN's objection to the review not been restarted including revising the Section 11 order and referring the new Project to the Ministers to determine whether a review panel is appropriate for the new Project should be noted in this section.  <u>Follow-up Comment June 10, 2015</u> DONE – added a note about SSN's objection to not starting the process anew, but also said that the EAO's response was appropriate. DONE – used the language of the Section 11 Order but then makes a clarification noting our concern.	Section 4 Regulatory Process (page 9) , Version 1.5	Text in Section 4, Regulatory Process (page 9) was revised to state: <i>KAM considered feedback from Aboriginal groups, the public and key stakeholders. As a result of this feedback, KAM proposed changes to the Project design. SSN advised the BC EAO that it believes these revisions are sufficient to require a new review process, including a revised section 11 Order, and referral of the Project to the Ministers to determine whether a review panel is appropriate.</i> Additional text was also added to <b>Regulatory Process</b> to clarify the scope of the First Nations Consultation Plan which relies on the section 11 Order as well as a number of guidance documents. It now states: <i>The First Nations Consultation Plan is meant to serve as a guide to ensure regulatory requirements are met. In doing so, it considers a number of guidance documents, including:</i> <ul style="list-style-type: none"> <li>• Order issued pursuant to section 11 of the BC EAA;</li> <li>• BC EAA;</li> <li>• Environmental Impact Statement (EIS) Guidelines for the Project;</li> <li>• Environmental Assessment Office, User Guide (BC EAO, 2011): Consultations with First Nations;</li> <li>• Proponent Guide for providing First Nation Consultation Information (Non-Treaty First Nations) (BC EAO, 2010);</li> <li>• Aboriginal Consultation and Accommodation Updated Guidelines for Federal Officials to Fulfill the Duty to Consult (Government of Canada, 2011);</li> <li>• Considering Aboriginal Traditional Knowledge (TK) in environmental assessments conducted under the Canadian Environmental Assessment Act – Interim Principles (CEA Agency, 2013); and</li> <li>• Guide to Involving Proponents when Consulting First Nations in the Environmental Assessment Process (BC EAO, 2013).</li> </ul> <i>The Application for an EA Certificate/EIS for a Comprehensive Study (Application/EIS) will include a summary and evaluation of any consultation activities that KAM has carried out in relation to the Project as well as the First Nations Consultation Plan.</i>
8.	Letter dated February 2, 2015	2	At p. 13, the Section 11 Order should state SSN as the First Nation, not that the bands are merely represented by SSN. The division is the traditional form of governance for SSN, not the <i>Indian Act</i> construct of bands.	Not applicable	Agree with comment. The First Nations Consultation Plan no longer uses the <i>Indian Act</i> term “bands”.

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9.	Letter dated February 2, 2015	3	<b>Level of consultation</b> (p. 13, mid-page). The Consultation Plan states that “the level of consultation with each Aboriginal group will vary.” It would be helpful to state more explicitly the levels of consultation that will be conducted with each Aboriginal group. The SSN asserts that, commensurate with its interests in its traditional territory, a proper assessment of the proposed mine requires a deep level of consultation with the SSN.	Not applicable	Comment noted. Consultation requirements for the SSN (as set forth in the section 11 Order) require a First Nations (SSN) Consultation Plan. Given this is not required for the Working Group First Nations, all reference to Working Group First Nations has been removed from throughout the First Nations (SSN) Consultation Plan.
10.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #2 Appendix B - #3	3	By letter dated November 7, 2012, the Environmental Assessment Office advised that, with respect to the original mine project, the Province’s assessment is as follows: “Our assessment of the required scope of the duty to consult the SSN, based on these assessments of strength of claims and potential for impact from the proposed Project is that it lies at the deeper end of the consultation spectrum described in the Haida case” This level of consultation should be expressly stated in the Consultation Plan.  <u>Follow-up Comment June 10, 2015</u> 1. In respect to the level of consultation, they have left themselves some “wobble room.” They have acknowledged that the EAO said it should be at the deeper end of the spectrum, but called this a “preliminary” assessment and said that it could change with further orders or directions from the EAO or Agency. <u>The EAO’s revised strength of claim assessment for both Title and Rights should be reflected in the new plan.</u> 2. PARTLY DONE – they note that the EAO’s “preliminary” assessment was that consultation with the SSN should “lie at the deeper end...”; then they added that “During the Application/EIS period, procedural aspects of Crown consultation delegated to KAM may be adjusted through a section 13 order, or as directed by BC EAO or the Agency.” This section should be updated to reflect the revised assessment for both title and rights. Further to the new assessment, how they will address <u>Accommodation</u> must be addressed in this document and the integration of the G2G and N2N process in the FN Consultation Plan with respect to both Title and Rights. SSN reserves the right to provide feedback on KAM’s proposal for consultation in that regard.	Not applicable	Comments noted. KAM acknowledges the direction from BC EAO and will continue to endeavour to consult SSN at a deep level of consultation. The First Nations Consultation Plan sets forth a process for consultation informed by this direction from BC EAO. KAM remains committed to sharing information with the SSN. Related effects assessments which will include the identification of appropriate mitigation, enhancement and accommodation measures will be shared with SSN prior to the filing of the Application. KAM will endeavor to continue mitigation and accommodation dialogue with the SSN. The effects assessments in the Application will inform the design of appropriate mitigation and accommodation measures. Given the assessments are not yet finalized, KAM will not provide detailed accommodation strategies in the Plan. However, accommodation measures and mitigation will be detailed in Part C of the Application, which will be shared with SSN prior to filing.
3.	Letter dated February 2, 2015	4	<b>Overarching consultation objectives</b> (pp. 13-14). Aboriginal Interests should be clearly defined to include Aboriginal rights and title.	Section 6.1 Consultation Objectives	Agree with comment. This section has been revised significantly to address SSN concerns. The objectives now include the following statement:

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				(page 11) , Version 1.5	<ul style="list-style-type: none"> <li>In collaboration with the SSN, identify Aboriginal interests (including Aboriginal rights and title) which have the potential to be adversely affected by Project related activities</li> </ul>
4.	Letter dated February 2, 2015	4	<p>The overarching objectives of consultation, as stated near the bottom of p. 13, are very proponent-centred and do not reflect well the intent of the consultation process as set out in the Section 11 Order. For example, the first overarching objective is “to build understanding about the proposed Ajax Project” – something that has more to do with KAM’s marketing of its proposed project and much less to do with identifying First Nations “perspectives and opinions about the proposed Project and the potential effects of the proposed Project on their Aboriginal interests” (s. 9.1 of the Section 11 Order) or “identifying issues and concerns raised by the First Nations with respect to the proposed Project’s potential adverse effects on the First Nations’ Aboriginal interests and on the potential for adverse environmental, economic, social, health and heritage effects, and how these issues and concerns are to be addressed” (s. 15.5 of the Section 11 Order). <b>While understanding the project is important to assess its impacts, it is not appropriate as the overarching goal of consultation with First Nations.</b></p>	Section 5 Responsibility for Consultation (page 10) , Version 1.5	<p>Agree with comment. A new section was added to the First Nations Consultation Plan titled <b>Responsibility for Consultation</b>. This section describes the section 11 Order requirements with respect to SSN and now states:</p> <p><i>Based on this, KAM understands its responsibility for consultation to include the following:</i></p> <ul style="list-style-type: none"> <li>To design and implement a First Nations Consultation Plan with input and advice from SSN as part of the overall Application/EIS process, including a description of how KAM intends to consult the SSN during the Pre-Application and Application Review stages.</li> <li>To provide a two way mechanism to share and receive information and support meaningful consultation.</li> <li>To identify SSN Aboriginal interests, as described in the section 11 Order. KAM will continue to identify Aboriginal interests that have the potential to be adversely affected by the Project through ongoing consultation activities and commissioned studies (CHS and Preliminary Mitigation Report).</li> <li>To identify measures to avoid or mitigate potential adverse effects or otherwise address or accommodate the concerns of SSN as appropriate.</li> <li>To work collaboratively with SSN to develop options to enhance positive Project effects and benefits of the Project.</li> </ul> <p>The section on overarching consultation objectives was deleted. The consultation objectives were significantly altered to take into account SSN feedback.</p>
5.	Letter dated February 2, 2015	4	Further, nowhere in the overarching objectives is “potential adverse effects” or any negative impact mentioned. Instead, the overarching objectives muddy the true purpose of the consultation by turning it into a positive communications exercise through “building understanding” and “identifying opportunities.”	Section 6.1 Consultation Objectives (page 2) , Version 1.5	<p>Agree with comment. The following bullets were added to the consultation objectives:</p> <ul style="list-style-type: none"> <li>In collaboration with the SSN, identify Aboriginal interests (including asserted Aboriginal rights and title) which have the potential to be adversely affected by Project related activities;</li> <li>Discuss ways to avoid, reduce, mitigate or accommodate potential adverse effects to SSN interests.</li> </ul>
6.	Letter dated February 2, 2015	4	<p>A better statement of the overarching objectives of the consultation with First Nations is as follows:</p> <p>The overarching objective of consultation is to ensure that the Application/EIS contains the appropriate information to assess the potential adverse effects of the proposed project on Aboriginal interests including aboriginal rights and title. The consultation will seek to identify potential adverse effects on Aboriginal interests and identify measures to avoid or mitigate those impacts or otherwise address or accommodate the concerns of Aboriginal groups.</p> <p><b>Follow-up Comment June 10, 2015</b></p>	Section 6.1 Consultation Objectives (page 11) , Version 1.5	<p>Agree with comments. The following bullets were added to the consultation objectives:</p> <ul style="list-style-type: none"> <li>Incorporate information from the SSN into the Application/EIS where practical and appropriate. This includes consideration of the Cultural Heritage Study, the Preliminary Mitigation Report and other related materials;</li> <li>In collaboration with the SSN, identify Aboriginal interests (including asserted Aboriginal rights and title) which have the potential to be adversely affected by Project related activities; and</li> <li>Discuss ways to avoid, reduce, mitigate or accommodate potential adverse effects to SSN interests.</li> </ul>

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	<p><u>Follow-up Comment June 10, 2015</u> Appendix B - #4</p>		<p>PARTLY DONE – they kept their “building understanding” part of the overarching objective but added to it “sharing information” and then added that this is done to “enable the identification of adverse effects on Aboriginal interests ...” and added a statement about the parties working together to ensure the Application/EIS contains the appropriate information to assess the potential adverse effects. However, they do not include accommodation and/or alternatives to the Project (alternative locations, technology, and timing/pace).</p>		
7.	<p>Letter dated February 2, 2015</p> <p><u>Follow-up Comment June 10, 2015</u> Appendix B - #5</p>	5	<p><b>SSN preferences for consultation</b> (p. 13, it is stated that one of the objectives of consultation is, “to identify potential project impacts on Aboriginal interest (including <i>potential</i> Aboriginal rights including title), as well identify potential opportunities and mitigation measures”. “Aboriginal Interests” should be defined to include identifying all potential adverse impacts of the Project on Aboriginal rights and Aboriginal title.</p> <p><u>Follow-up Comment June 10, 2015</u> (p. 13, it is stated that one of the objectives of consultation is, “to identify potential project impacts on Aboriginal interest (including potential Aboriginal rights including title), as well identify potential opportunities and mitigation measures”. “Aboriginal Interests” should be defined to include identifying all potential adverse impacts of the Project on Aboriginal rights and Aboriginal title. <b>NOT DONE – but they added clarification in parentheses in some places where the term “Aboriginal Interests” is used.</b> In addition to identifying opportunities and mitigation measures, a further stated object of consultation should include identifying proposed accommodation. <b>DONE- added to 2nd bullet on p. 14.</b></p> <p>At p. 13, bottom, it is not a true statement to say that the plan was “influenced by information SSN has provided regarding their consultation preferences referring to the Capacity Agreement”. On the contrary, at 2.1 of the Capacity Agreement it provides that the parties will work towards revising a Consultation Plan for the new Project. No information about consultation preferences has been solicited up until now. Furthermore, there is no agreement on the contents of the Consultation Plan including necessary capacity funding beyond the Term of the Capacity Agreement which term expires upon the earlier of October 2015 or the commencement of the Application Review Stage of the EA process. <b>DONE – they took out the reference to SSN providing information.</b></p>	Section 6.1 Consultation Objectives (page 11) , Version 1.5	<p>Agree with comment. The following bullet was edited under the consultation objectives to state:</p> <ul style="list-style-type: none"> <li><i>In collaboration with the SSN, identify Aboriginal interests (including asserted Aboriginal rights and title) which have the potential to be adversely affected by Project related activities;</i></li> </ul> <p>The following bullet was also added:</p> <ul style="list-style-type: none"> <li><i>Discuss ways to avoid, reduce, mitigate or accommodate potential adverse effects to SSN interests.</i></li> </ul>

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8.	Letter dated February 2, 2015	5	In addition to identifying opportunities and mitigation measures, a further stated object of consultation should include identifying proposed accommodation.	Section 6.1 Consultation Objectives (page 11) , Version 1.5	Agree with comment. The following bullets was edited under the consultation objectives to state: <ul style="list-style-type: none"> <li>• Discuss ways to avoid, reduce, mitigate or accommodate potential adverse effects to SSN interests.</li> </ul>
9.	Letter dated February 2, 2015	5	At p. 13, bottom, it is not a true statement to say that the plan was “influenced by information SSN has provided regarding their consultation preferences referring to the Capacity Agreement”.	Not applicable	Comment noted. This statement has been removed from the Consultation Plan.
10.	Letter dated February 2, 2015	5	On the contrary, at 2.1 of the Capacity Agreement it provides that the parties will work towards revising a Consultation Plan for the new Project.	Not applicable	Comment noted.
11.	Letter dated February 2, 2015	5	No information about consultation preferences has been solicited up until now. Furthermore, there is no agreement on the contents of the Consultation Plan including necessary capacity funding beyond the Term of the Capacity Agreement which term expires upon the earlier of October 2015 or the commencement of the Application Review Stage of the EA process.	Not applicable	Comment noted. Sharing of the First Nation Consultation Plan was intended, in part, to solicit information on SSN consultation preferences. This document was shared initially in 2012 and a revised version was shared with the SSN for input in 2014.
12.	Letter dated February 2, 2015	6	<b>Specific consultation objectives</b> (p. 14). On page 14, the Consultation Plan identifies four bulleted “objectives as a guide for on-going communication and consultation with SSN.” The last bullet ends in “and,” indicating that a further bullet may be missing, or that this is a typographic error.	Not applicable	Agree with comment. Section was revised and the typographic error was removed.
13.	Letter dated February 2, 2015	6	More substantively, the SSN proposes further objectives to add to the list: <ol style="list-style-type: none"> <li>Distribute information to SSN in a timely manner as soon as, or soon after, it becomes available;</li> <li>Provide readily accessible information and adequate time to review it;</li> <li>Consider and, where practicable, incorporate feedback from the SSN into the Application/EISI including a review the Cultural Heritage Study (CHS) and expanded CHS for the new Project footprint which is currently underway and Consider and the materials filed in the Supreme Court of British Columbia as Action Nos. 44704 and 44270 and, where practicable, incorporate feedback from the SSN into the Application/EIS; and</li> <li>Work with SSN to identify the adverse impact of the Project on aboriginal rights and title in the new Project footprint including considering and incorporating feedback on the precise location of the footprint and options for reducing or move the footprint to avoid the destruction of Goose Lake and the Hunting Blind Complex.</li> </ol>	Section 6.1 Consultation Objectives (page 11) , Version 1.5	Comments noted. KAM edited the <b>Consultation Objectives</b> section (for both the Pre-Application and Application Review section) as reflected in the bullets below. The expanded CHS for the updated General Arrangement (new footprint) was due in March 2015. To date, KAM has yet to receive the expanded CHS. Once the report is made available, it will be incorporated into the Application depending on when the expanded CHS is provided and the corresponding stage of the EA process. <p style="text-align: center;"><b>6.1 CONSULTATION OBJECTIVES</b></p> <p><i>Consultation objectives during the Pre-Application period include:</i></p> <ul style="list-style-type: none"> <li>• respect SSN culture, processes, perspectives, and opinions and seek flexible and mutually agreeable consultation processes;</li> <li>• be guided by the section 11 Order and the draft Application Information Requirements/EIS Guidelines (AIR/EIS Guidelines);</li> <li>• provide the SSN with timely and credible information on the Project and facilitate meaningful discussion;</li> <li>• as appropriate, facilitate adequate review times for Project-related information;</li> </ul>

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	<p><b>Follow-up Comment June 10, 2015</b> Appendix A - #3 Appendix B - #6</p>		<p><b>Follow-up Comment June 10, 2015</b></p> <ol style="list-style-type: none"> <li>1. Throughout, any comments we made suggesting changes that referred to the old versus new footprint of the project have been ignored. They are clearly treating this as one project and want to avoid that language.</li> <li>2. More substantively, the SSN proposes further objectives to add to the list: <ol style="list-style-type: none"> <li>a) Distribute information to SSN in a timely manner as soon as, or soon after, it becomes available; <b>DONE - added "in a timely manner" to 3rd bullet</b></li> <li>b) Provide readily accessible information and adequate time to review it;</li> <li>c) Consider and, where practicable, incorporate feedback from the SSN into the Application/EIS including a review the Cultural Heritage Study (CHS) and expanded CHS for the new Project footprint which is currently underway and Consider and the materials filed in the Supreme Court of British Columbia as Action Nos. 44704 and 44270 and, where practicable, incorporate feedback from the SSN into the Application/EIS; and <b>PARTLY DONE - instead of listing the documents noted above, they have added "Where possible incorporate feedback into the EA/EIS" in the 3rd bullet. This is not acceptable to SSN as this information should be reviewed as part of the components of Pípsell as proposed to the EAO.</b></li> <li>d) Work with SSN to identify the adverse impact of the Project on aboriginal rights and title in the new Project footprint including considering and incorporating feedback on the precise location of the footprint and options for reducing or move the footprint to avoid the destruction of Goose Lake and the Hunting Blind Complex. <b>NOT DONE - they seem to have avoided any reference to old/new footprint.</b></li> </ol> </li> </ol>		<ul style="list-style-type: none"> <li>• Incorporate information from the SSN into the Application/EIS where practical and appropriate. This includes consideration of the CHS, the Preliminary Mitigation Report and other related materials;</li> <li>• in collaboration with the SSN, identify Aboriginal interests (including asserted Aboriginal rights and title) which have the potential to be adversely affected by Project-related activities; and</li> <li>• Discuss ways to avoid, reduce, mitigate or accommodate potential adverse effects to SSN interests.</li> </ul>
14.	Letter dated February 2, 2015	7	<p><b>Consultation methodology/steps</b> (pp. 14-15). This combined list of things that have been done to date and things that will be done in the future obscures what has actually been done and what is left to do. This list should be separated into two lists, which may overlap to some degree: (1) consultation actions taken to date, and (2) consultation actions to be taken in the remaining Pre-Application/EIS period.</p> <p><b>Follow-up Comment June 10, 2015</b></p>	6 Pre-Application and Consultation (Page 12) Section 7 Consultation Activities for the remaining Pre-Application Period (page 14) , Version 1.5	<p>Agree with comments. As per SSN's request, the section has been split into two distinct sections including :</p> <ul style="list-style-type: none"> <li>• 6 Pre-Application and Consultation (Page 12)</li> <li>• 7 Consultation Activities for the remaining Pre-Application Period (page 14)</li> </ul>

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	<u>Follow-up Comment June 10, 2015</u> Appendix A - #4 Appendix A - #7		<ol style="list-style-type: none"> <li>1. They have not addressed most of SSN's comments on consultation methodology. These comments were initially made to press them to provide as much information as possible.</li> <li>2. Not done.</li> </ol>		
15.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #7	7	As well, the list of consultation actions taken to date should be more specific, with details of what notice was provided, how many meetings have taken place (and of what type), how many site visits (and by whom), summary of correspondence or telephone consultations to date, etc. The list of remaining actions also needs more detail in terms of what is anticipated – not just a list of vague “invite/contact/correspond” items.  <u>Follow-up Comment June 10, 2015</u> NOT DONE - though a bit more detail was added to bullet 3.	Section 6 Pre-Application and Consultation (Page 12) , Version 1.5	Comments noted. The consultation activities (both planned and conducted to date) now provide more detail. However, the First Nation Consultation Report (to be shared with SSN) will provide more specific detail for consultation activities conducted to date, including detailed descriptions of activities and number of events for each activity. SSN will be asked to review the First Nations Consultation Report and feedback provided will be incorporated into the document, as appropriate.
16.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #7	7	On page 14, item no. 2, the two week pre-application for Notices of work and other planned work programs to facilitate SSN input is not an “internal protocol” and not an adequate process or amount of time required to facilitate SSN input on the Project. The Notice of Work being referred to limited Identified Exploration and Development Work and the time for input is 1 month, not 2 weeks. Moreover, such notices expressly exclude the Project itself. This should be removed from the Consultation Plan.  <u>Follow-up Comment June 10, 2015</u> DONE - this has been clarified in bullet 3 (that the 2 weeks had been used but as of October 2014, this became a 30 day pre-application protocol).	Not applicable	Comments noted. This sentence was revised and is now included under the section Consultation Activities Conducted to Date regarding the NOW and MYAB Applications are described.
17.	Letter dated February 2, 2015	7	On page 14, item no. 8, the Capacity agreement does not provide for participation in community meetings when invited and this should be removed from the Consultation Plan.  <u>Follow-up Comment June 10, 2015</u>	Not applicable	Comment noted. The section has been revised and no longer includes this sentence. However, it should be noted that the Capacity Funding Agreement does provide funding for participation in community meetings.

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	<u>Follow-up Comment June 10, 2015</u> Appendix A - #7		NOT REMOVED - but changed to "community meetings or other meetings."		
18.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #5 Appendix B - #8	8	<p><b>Community session discussion topics</b> (pp. 15-16). More than three community consultation events should be undertaken and those meetings should be scheduled after the CHS and expanded CHS has been completed. Additional meeting topics should be added for the new meetings. The topics proposed for the three sessions do not reflect the bulk of the concerns identified to date (e.g., environmental, health, and social impacts as set out in Tables 1 and 2), and overemphasize "Employment Opportunities" and "Mine &amp; Process Plan"). SSN suggests limiting the discussion of "Employment Opportunities" and "Mine &amp; Process Plan" to one session and building in more discussion of the Application/EIS study components that deal with environmental and health concerns set out in Tables 1 and 2.</p> <p><u>Follow-up Comment June 10, 2015</u></p> <ol style="list-style-type: none"> <li>1. They have not addressed our comments on community discussion topics at all. These all remain unchanged. It may be a moot point for the discussions have already happened and if they don't plan on holding any more community sessions.</li> <li>2. NOT DONE - this comment was not addressed at all. No change. And the date still says must be done before February 28, 2015.</li> </ol>	Not applicable	Comments noted. The section has been removed and now more broadly speaks to community meetings. It no longer specifies topics (e.g. Employment Opportunities). KAM is committed to engaging the SSN communities with respect to the Project and will endeavour to participate in additional Community Sessions during the Application Review stage. As per the Capacity Funding Agreement, KAM will endeavour to host a third community session for each SSN community.
3.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #9	9	<p><b>Consultation policies and protocols</b> (p. 16). It is not a true statement to say that through discussion with SSN, KAM identified preferred consultation approaches or that the "latest framework for appropriate consultation" is outlined in the Capacity Agreement. KAM did not ask SSN about its preferred consultation. Furthermore, the Capacity Agreement is restricted to the Pre-Application Stage Of the EA Process and specifically excludes any bulk sampling, development of a mine, and/or other mining activities, or the consultation process with the Crown.</p> <p><u>Follow-up Comment June 10, 2015</u></p> <p>DONE - they took the statement out.</p>	Section 6.3 Consultation Policies and Protocols (page 4) , Version 1.5	Agree with comments. The Consultation Policies and Protocols section was revised and all reference to the Capacity Agreement was removed.

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4.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #9	9	Page 16 of the Consultation Plan contains a list of bulleted points. The first five bullets only apply to the Pre-Application State and deal with meetings that KAM and SSN have agreed to hold towards the negotiation of a Project Agreement. The last bullet appears to have been wrongly included in this list, as it does not deal with meetings, but rather, the provision of draft applications to SSN in order for SSN to have the opportunity to comment on those applications.  <u>Follow-up Comment June 10, 2015</u> DONE	Section 6.3 Consultation Policies and Protocols (page 13) , Version 1.5	Comments noted. The Consultation Policies and Protocols section was revised and now simply states: <i>KAM will continue to consult with SSN to learn more about specific policies and protocols, not only for ongoing Pre-Application work but also during the Application review period. In the course of that consultation, KAM will continue with consultation activities and procedures further informed by agreements, guidance documents, and specific procedures agreed to.</i>
5.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #6 Appendix B - #9	9	For bullet 1, it should be noted that both Chiefs must always be present at the meetings together with the legal and technical team.  <u>Follow-up Comment June 10, 2015</u> 1. The chief's meeting does not require that both chiefs be present, though it names them both as people to attend at the meeting. SSN wants this to be clearly stated. 2. NOT DONE	Section 6.3 Consultation Policies and Protocols (page 13) , Version 1.5	Comments noted. Please refer to Section 6.2 of the Plan for wording on Chief to Chief meetings. <i>Since 2008, KAM and SSN leadership (the Chief of TteS and the Chief of SIB) have participated in regular leadership meetings designed to share information, discuss capacity funding and other agreements, describe Project activities and identify potential SSN concerns. Both First Nation Chiefs are invited to these meetings in conjunction with the SSN legal and technical team.</i>
6.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #9	9	Also in relation to this last bullet/new paragraph, "KAM will provide SSN opportunities to provide input on cultural related issues" does not apply to the Project, nor does it limit or restrict in any way the foregoing description of applications on which SSN will be given the opportunity to comment. SSN expects to be consulted and have the opportunity to comment on <i>all</i> applications for authorizations, approvals, or permits relating to exploration and development work for the proposed mine, whether or not they are culturally related.  <u>Follow-up Comment June 10, 2015</u> DONE - added to paragraph following bullets.	Section 6.3 Consultation Policies and Protocols (page 13) , Version 1.5	Comments noted. Please refer to the response to ID#28.
7.	Letter dated February 2, 2015	9	Also, in relation to SSN providing comments on applications for authorizations, approvals, permits, etc., where SSN does provide such comments, SSN asks that those comments are to be forwarded to the regulatory agency along with KAM's application. This request should also be reflected in this paragraph.	Section 6.2 Consultation and Engagement Activities Conducted to Date	Comments noted. Please refer to the response to ID#28. This will be noted under Section 6.2- Consultation and Engagement Activities Conducted to Date with respect to the NOW and MYAB consultation processes. The following text was added: <i>KAM has been and will continue to exceed mandated NOW and MYAB consultation requirements outlined by government as follows. A complete description of the work program, with a map</i>

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	<u>Follow-up Comment June 10, 2015</u> Appendix B - #9		<u>Follow-up Comment June 10, 2015</u> DONE - added to paragraph following bullets	(page 12) , Version 1.5 and 1.6	<i>delineating the area of the proposed disturbance will be provided to the SSN one month prior to submission of the application to government reviewing agencies. In addition to any site wide archaeological clearances on new disturbances on site KAM also invites the SSN to provide a cultural clearance prior to any work being performed.</i>
8.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #7 Appendix B - #9	9	Finally, it should be made clear in the Consultation Plan what role KAM's consult, AMEC, is going to have in the consultation process and what work KAM is delegating to AMEC.  <u>Follow-up Comment June 10, 2015</u> 1. The role of AMEC has not been clarified in the document. 2. NOT DONE	Not applicable	Comments noted. KAM is leading all consultation with SSN. The contractor, Amec Foster Wheeler, supports KAM in developing EA related materials for the Application. However, KAM is not delegating consultation to Amec FW. The First Nation Consultation Plan was edited to remove Amec FW logos and related branding.
3.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #8 Appendix B - #10	10	<b>Consultation documentation</b> (pp. 16-17). With respect to the consultation records referred to at the bottom of page 16 (i.e., KAM's record of phone calls, emails, meeting notes, and other correspondence), SSN should have the opportunity to review the record and correct any misinformation. Additionally, the record needs to be detailed, including date, communication method, group/individual consulted, topics discussed, summary of comments received, and summary of any response. Tours and site visits should also be included in the record. <u>Follow-up Comment June 10, 2015</u> 1. With respect to consultation documentation, they have resisted all our comments relating to review and correction of the record or to reviewing the consultation management system. This is an important change SSN requested which has been rejected. 2. With respect to the consultation records referred to at the bottom of page 16 (i.e., KAM's record of phone calls, emails, meeting notes, and other correspondence), SSN should have the opportunity to review the record and correct any misinformation. <b>NOT DONE</b> . Additionally, the record needs to be detailed, including date, communication method, group/individual consulted, topics discussed, summary of comments received, and summary of any response. <b>PARTLY DONE - some additional information included</b> . Tours and site visits should also be included in the record. <b>NOT DONE</b> .	Not applicable	Comments noted. The consultation management system contains sensitive information for multiple groups (including other First Nations, landowners and stakeholders) therefore KAM is unable to provide access to the consultation management system. The output includes a table titled Summary of Communication with the SSN. This will be provided to SSN for review prior to filing of the Application. This information will be provided with the First Nations Consultation Report

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3.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #10		In relation to the “issues management system” mentioned at the top of page 17, SSN should have the opportunity to comment on the system developed by the consultant and provide any feedback or suggested improvements to the system. <u>Follow-up Comment June 10, 2015</u> In relation to the “issues management system” mentioned at the top of page 17, SSN should have the opportunity to comment on the system developed by the consultant and provide any feedback or suggested improvements to the system. <b>NOT DONE - it appears they did not accept any SSN “correcting” or comments on improving their records or system of consultation.</b>	Not applicable	Comments noted. SSN will be provided an opportunity to comment on the outputs of the “Issues Management System” as part of their review of the First Nations Consultation Report including a detailed log of communication with SSN and an Issues Tracking Table. The outputs are also included as appendices to Section 15 of the Application.
4.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #11	11	<b>Dispute resolution</b> (p. 17). On page 17, the Consultation Plan sets out what appears to be a proposed dispute resolution plan that “could be considered for discussion.” It is unclear to what sorts of disputes this proposed dispute resolution process applies. For example, is it intended to apply to disputes about the adequacy of consultation, such as the extent of consultation or the content of consultation? Does it apply to procedural aspects of consultation such as whether KAM provides documents in a timely manner? Or, is this process intended to apply more broadly to any dispute the parties have in relation to the proposed mine? While the process as set out is not objectionable in so far as it applies to disputes about how the consultation process might unfold, the boundaries are not well defined. Certainly, the SSN would not agree to a dispute resolution process that could negatively affect its legal procedural rights in any way.  <u>Follow-up Comment June 10, 2015</u> DONE - added clarification that only applies to “a dispute arising as part of the consultation process”. SSN will not agree to postpone any other remedy available to it while this process may take place and will at all times defend its rights and title. More detail is required from KAM on exactly what is being proposed here.	Section 6.5 Dispute Resolution (page 13) Version 1.5 and 1.6	Agree with comments. The section has been revised to clearly identify the relationship of dispute resolution for the procedural aspects of consultation as follows: <i>In the event that SSN and KAM are unable to resolve a dispute arising as <u>part of the procedural aspects of consultation</u>, the following general dispute resolution process could be considered for discussion</i>
5.	Letter dated February 2, 2015	12	<b>Pre-Application Consultation Summary</b> (p. 17). Bullet one should be removed as there has not been six years of engagement to date. There was no meaningful consultation with adequate capacity funding until the Capacity Agreement and even then, the agreement only extends to the pre-application stage of the EA process.	Section 6.2 Consultation and Engagement Activities Conducted to Date (page 12) Version 1.5 and 1.6	Comments noted. The overall section has been revised to reflect that consultation and <u>engagement</u> began in 2008. However, it should be noted that various levels of capacity funding have been provided in 2008 (Negotiation Agreement funding), 2010 (Exploration Agreement funding), 2011 (KAM was invoiced for meetings), 2012 (Study Funding Agreement) and 2014 (Capacity Funding Agreement).

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	<u>Follow-up Comment June 10, 2015</u> Appendix B - #12		<u>Follow-up Comment June 10, 2015</u> DONE - removed		
6.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #12	12	What is the “confidential agreement in 2010” that is being referred to? SSN would like to see a copy of that and it should be noted that all of the agreements were for the original Project footprint prior to it being moved, with the exception of the Capacity Agreement.  <u>Follow-up Comment June 10, 2015</u> PARTLY DONE – the “confidential agreement in 2010” has been removed; they did not add a note that the agreements were for the “Original Project footprint...”	Not applicable	Comments noted. Reference to the confidential agreement has been removed.
7.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #12	12	At page 18, it is not a true statement to say the KAM has consulted based on SSN’s preferences and this should be removed.  <u>Follow-up Comment June 10, 2015</u> NOT DONE – they say “KAM has provided SSN a copy of this plan for comment and incorporated feedback received.” Though, we note that they have not in fact incorporated all of the feedback received.	Not applicable	Comments noted. The sentence has been removed. However, sharing of the First Nation Consultation Plan was intended, in part, to solicit information on SSN consultation preferences. This document was shared initially in 2012 and a revised version was shared with the SSN for input in 2014.
8.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #13	13	<b>Purpose of consultation under Application/EIS Review</b> (p. 18, mid-page). Again, as described above, the overarching purpose of consultation with the SSN should be to ensure that the Application/EIS contains the appropriate information to assess the potential adverse effects of the proposed project on Aboriginal rights and title. The consultation should seek to identify potential adverse effects on Aboriginal interests and identify measures to avoid or mitigate those impacts or otherwise address or accommodate the concerns of Aboriginal groups.  <u>Follow-up Comment June 10, 2015</u> PARTLY DONE – as noted for overarching objective above, they kept their “build understanding” language but added to it some “identification of adverse effects” language to please us.	Section 8 Consultation Activities for the Application Review Phase (page 15) Version 1.5 and 1.6	The consultation objectives of the Application Review Phase was revised and now only references the following objectives: <i>The purpose of the consultation will be to:</i> <ul style="list-style-type: none"> <li>• continue to engage SSN in the Project;</li> <li>• endeavour to involve SSN in assessing and verifying the results of environmental studies and effects assessments;</li> <li>• continue to involve SSN in assessing the effectiveness of mitigation measures, as practicable;</li> <li>• continue to invite SSN to offer input into culturally appropriate approaches to avoid, reduce, mitigate, or otherwise accommodate potential adverse effects to Aboriginal interests; and</li> <li>• Identify opportunities for longer-term SSN participation in economic, employment, training, and other capacity building opportunities.</li> </ul>
9.	Letter dated February 2, 2015	13	In relation to the more specific “purposes” set out in bullet form, the second bullet (i.e., “Provide and review the results of baseline environmental studies”)	Section 8 Consultation Activities for the Application Review	The section has been revised and no longer references baseline studies. The wording “seek feedback” is now used in multiple components of the Table.

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	<u>Follow-up Comment June 10, 2015</u> Appendix B - #13		should include "and seek feedback" at the end of the bullet, as is the case in the third bullet.  <u>Follow-up Comment June 10, 2015</u> DONE	Phase: Table 8-1, Proposed Application Review Consultation Activity and Timing, (page 15-16) Version 1.5 and 1.6	
10.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #13	13	The fifth bullet (i.e., "Seek SSN perspectives and opinions regarding exercising asserted Aboriginal rights elsewhere in SSN's asserted traditional territory") does not appear to be a purpose in keeping with the Section 11 Order. It should be removed. The consultation is about the impact of the proposed mine on the exercise of Aboriginal rights and how the proposed mine might endeavour to accommodate Aboriginal rights and interests through mitigation or avoidance of negative impacts. It is offensive to the SSN to assume Aboriginal rights and interests could just be moved out of the way of the proposed mine and exercised someplace else.  <u>Follow-up Comment June 10, 2015</u> DONE - they have changed the language and modified it in a way that we no longer think is offensive.	Not applicable	Comments noted. The wording has been removed from the section.
11.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #13	13	Similarly, part of the fourth bullet (i.e., "Invite SSN to offer input into approaches to ... accommodate potential adverse impacts to Aboriginal interests") offends the premise that the proposed project in the SSN's traditional territory should seek to accommodate Aboriginal interests, not the other way around. SSN suggests splitting this bullet into two bullets, removing "or otherwise accommodate" from the first bullet, and wording a second bullet as follows: KAM might seek SSN perspectives and opinions on whether any adverse impacts on Aboriginal interests could be acceptable to the SSN and under what conditions or circumstances.  <u>Follow-up Comment June 10, 2015</u> DONE - they have changed the language and modified it in a way that we no longer think is offensive.	Section 8 Consultation Activities for the Application Review Phase: Table 8-1, Proposed Application Review Consultation Activity and Timing, (page 15-16), Version 1.5 and 1.6	The wording has been revised to state: <i>KAM will endeavour to:</i> <ul style="list-style-type: none"> <li>• Meet SSN to discuss the Application / EIS and seek feedback; and</li> <li>• Participate in Working Group and other meetings as requested.</li> </ul> <i>Consultation methods will be discussed with SSN and may include:</i> <ul style="list-style-type: none"> <li>• Individual or small group meetings;</li> <li>• Correspondence or other communications;</li> <li>• Site tours; and</li> <li>• Community Information Sessions such as community meetings, sessions with knowledge holders, technical workshops and/or open houses. Presentations may focus on topics requested by SSN (i.e., Goose Lake, Jacko Lake, the hunting blind, cumulative air emissions, potential effects to water quality and the Peterson Creek watershed, potential effects to SSN Interests).</li> </ul>

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					<i>In addition to the above proposed consultation activities, KAM will consider and where appropriate undertake further consultation activities with the SSN that may be proposed by the SSN during the course of the Application review period.</i>
12.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix A - #9 Appendix B - #14	14	<p><b>Table 3 - “receive all feedback”</b> (p. 19) SSN may have information requests upon receiving KAM’s application the KAM will need to respond to. Thereafter, SSN intends on providing rebuttal technical expert evidence and the “Gathering Feedback on the Application” needs to provide for that and all sufficient time for both of those steps to be completed.</p> <p><u>Follow-up Comment June 15, 2015</u></p> <ol style="list-style-type: none"> <li>1. In respect of “receiving feedback” in the last table in the plan, they have not addressed the following:               <ol style="list-style-type: none"> <li>a) They have not taken a number of our suggestions for session topics (see below in specific comments); and</li> <li>b) There is no acknowledgment anywhere in this section that SSN plans to provide technical information/evidence in response and no process for SSN to do this. SSN has repeatedly asked that there be time afforded in the plan to enable SSN to ask IRs, provide technical information/evidence. In addition, SSN wants to complete its own assessment and this should be included in the plan.</li> </ol> </li> <li>2. NOT DONE – there appears to be no acknowledgement of SSN providing technical rebuttal evidence, though there could be technical workshops on a variety of subjects. This needs to be provided for in the plan.</li> </ol>	Not applicable	<p>Comments noted. KAM understands the importance of receiving input from the SSN during the Application Review phase and looks forward to ongoing discussions with SSN’s legal and technical team.</p> <p>As stated in Section 7 of the Plan, KAM will consider any additional SSN perspectives and concerns in the Application/EIS.</p>
3.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #14	14	<p>At page 19, KAM says that some of the methods in 5.2 may be used to consult with SSN. The Consultation Plan should be clear on what exactly is being proposed by KAM.</p> <p><u>Follow-up Comment June 15, 2015</u> NOT DONE</p>	Section 8 Consultation Activities for the Application Review Phase: Table 8-1, Proposed Application Review Consultation Activity and Timing, (page 15-16) Version 1.5 and 1.6	<p>Agree with comments. Table 8-1 was revised and now states: Consultation methods will be discussed with SSN and may include:</p> <ul style="list-style-type: none"> <li>• Individual or small group meetings;</li> <li>• Correspondence or other communications;</li> <li>• Site tours; and</li> <li>• Community Information Sessions such as community meetings, sessions with knowledge holders, technical workshops and/or open houses. Presentations may focus on topics requested by SSN (i.e., Goose Lake, Jacko Lake, the hunting blind, cumulative air emissions, potential effects to water quality and the Peterson Creek watershed, potential effects to SSN Interests).</li> </ul> <p><i>In addition to the above proposed consultation activities, KAM will consider and where appropriate undertake further consultation activities with the SSN that may be proposed by the SSN during the course of the Application review period.</i></p>

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4.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B – #14	14	<p>Further to the comments noted above, more Community Information Sessions must be added and include additional topics such as those identified by SSN in its comments submitted to the EAO on the draft AIR/EISI including without limitation:</p> <ul style="list-style-type: none"> <li>• Goose Lake, Jacko Lake and Peterson Creek</li> <li>• The Hunting Blind Complex</li> <li>• The CHS and the expanded CHS</li> <li>• Governance and shared decision making</li> <li>• Impact Aboriginal economies</li> <li>• Impact on Biodiversity</li> <li>• Cumulative air emissions</li> <li>• Impact on Water quality and the Peterson Creek Watershed</li> <li>• Impact on Aboriginal rights and title</li> </ul> <p><u>Follow-up Comment June 15, 2015</u></p> <ul style="list-style-type: none"> <li>• Goose Lake, Jacko Lake and Peterson Creek <b>DONE – on list</b></li> <li>• The Hunting Blind Complex <b>DONE – on list</b></li> <li>• The CHS and the expanded CHS <b>NOT DONE – not added to list</b></li> <li>• Governance and shared decision making <b>NOT DONE – not added to list</b></li> <li>• Impact Aboriginal economies <b>NOT DONE – not added to list</b></li> <li>• Impact on Biodiversity <b>NOT DONE – not added to list</b></li> <li>• Cumulative air <b>emissions NOT DONE – not added to list, but air quality is on list</b></li> <li>• Impact on Water quality and the Peterson Creek Watershed <b>NOT DONE – Peterson Creek Watershed is not on the list, though water quality does appear on the list</b></li> <li>• Impact on Aboriginal rights and title <b>PARTLY DONE – “rights and title” are on the list (doesn’t specifically say “Aboriginal rights and title”)</b></li> </ul>	Section 8 Consultation Activities for the Application Review Phase: Table 8-1, Proposed Application Review Consultation Activity and Timing, (page 15-16), Version 1.5 and 1.6	<p>Comments noted. A bullet was added stating:</p> <ul style="list-style-type: none"> <li>• <i>Community Information Sessions such as community meetings, sessions with knowledge holders, technical workshops and/or open houses. Presentations may focus on topics requested by SSN (i.e., Goose Lake, Jacko Lake, the Hunting Blind, cumulative air emissions, the expanded CHS, biodiversity potential effects to water quality and the Peterson Creek watershed, potential effects to SSN Rights and Title).</i></li> </ul>
5.	Letter dated February 2, 2015	14	<p>At p. 20, in the second last row of Table 3, the Consultation Plan states that, within 130 days of providing a copy of the Application/EIS to SSN, KAM will endeavour to “receive all feedback from SSN...” It is not clear from this description what KAM is going to do. How will they “endeavour to receive”? What is meant by feedback – written submissions? Comments recorded at meetings? Is this proposed activity meant to set a deadline of 130 days for SSN to provide feedback, or it is imposing an obligation on KAM to record feedback in some particular way? In addition to needing some clarification about what this</p>	Section 8 Consultation Activities for the Application Review Phase: Table 8-1, Proposed Application Review Consultation Activity and Timing, (page 15-16), Version 1.5 and 1.6	<p>Agree with comments. Reference to the 130 days was removed from the table. BC EAO establishes the timelines for different Application Review activities. The Text was revised as follows:</p> <p><i>KAM, as instructed by BC EAO, will endeavour to incorporate SSN feedback (written submissions, public comments and feedback received through consultation activities) into the Application/EIS. This may include information on Aboriginal interests (including asserted rights and title), proposed mitigation or other sections of the Application/EIS.</i></p>

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	<p><u>Follow-up Comment June 10, 2015</u> Appendix A - #10 Appendix B - #14</p>		<p>proposed activity means, SSN suggests that instead of just “receiving” feedback, KAM should commit to “review and consider” all feedback received.</p> <p><b>Follow-up Comment June 10, 2015</b></p> <ol style="list-style-type: none"> <li>1. In the second last row of table 8-1 under “Proposed Consultation Schedule,” they say they will “receive, review and consider” feedback under the first bullet regarding “any specific Aboriginal interest,” but they only say they will “receive” feedback under the second bullet regarding “measures to avoid or mitigate potential adverse impacts and/or to otherwise address or accommodate Aboriginal interests that may be adversely affected. “Review and consider” needs to be added to this second bullet. (This may have just been an oversight in doing their revisions.). In addition, accommodation must also be considered as part of the plan.</li> <li>2. DONE - added clarification of “written and provided at meetings” in parentheses</li> <li>3. In addition to needing some clarification about what this proposed activity means, SSN suggests that instead of just “receiving” feedback, KAM should commit to “review and consider” all feedback received. <b>PARTLY DONE - added “review and consider” to first bullet but NOT to second bullet regarding measures to avoid or mitigate potential adverse impacts. We should ask that this be added to the second bullet.</b></li> </ol>		<p>Considering the follow up comment from June 10, 2015 “In addition, accommodation must also be considered as part of the plan. “. KAM will endeavor to continue mitigation and accommodation dialogue with the SSN. The effects assessments in the Application will inform the design of appropriate mitigation and accommodation measures. Given the assessments are not yet finalized, KAM will not provide detailed accommodation strategies in the Plan. However, accommodation measures and mitigation will be detailed in Part C of the Application, which will be shared with SSN prior to filing.</p>
6.	<p>Letter dated February 2, 2015</p> <p><u>Follow-up Comment June 10, 2015</u> Appendix A - #11</p>	15	<p><b>Table 3 - “report of the Application/EIS review consultation activities”</b> (p. 20). In the last row of Table 3, the Consultation Plan sets out that KAM will provide the Project Assessment Lead and the SSN a written report of the Application/EIS review consultation activities. SSN would like the opportunity to comment on the written report of the consultation activities before the report is submitted to the BC EAO’s Project Assessment Lead. This proposed activity should be revised to include provision of a draft report to the SSN for comment.</p> <p><b>Follow-up Comment June 10, 2015</b> While they have said they will provide SSN a written report of the consultation process for review and comment, they have not added our request that they commit to providing SSN’s comments on such a report to the EAO.</p>	<p>Section 8 Consultation Activities for the Application Review Phase: Table 8-1, Proposed Application Review Consultation Activity and Timing, (page 15-16), Version 1.5 and 1.6</p>	<p>Agree with comments. Text was revised to state: <i>In compliance with section 15.5 of the section 11 Order, within timelines established by BC EAO, KAM will provide the SSN with a draft consultation report of the Application/EIS Review consultation activities. SSN will have an opportunity to review and comment on a draft version of this report, and suggested changes will be incorporated as appropriate. The report will identify issues and concerns raised by the SSN and how these issues and concerns are to be addressed. The report along with the comments received by SSN will be provided to BC EAO.</i></p>

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	Appendix B - #15				
7.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #15	15	Additionally, any comments made by SSN on a draft report should be provided to the Project Assessment Lead along with KAM's report on consultation activities.  <u>Follow-up Comment June 10, 2015</u> NOT DONE	Section 8 Consultation Activities for the Application Review Phase: Table 8-1, Proposed Application Review Consultation Activity and Timing, (page 15-16), Version 1.5 and 1.6	Comments noted. A sentence was added to state: <i>The report along with the comments received by SSN will be provided to BC EAO</i>
8.	Letter dated February 2, 2015  <u>Follow-up Comment June 10, 2015</u> Appendix B - #16	16	<b>Table 3 - general</b> (pp. 19-20). SSN suggests the addition to the table of the following activity: "Consider and where appropriate undertake other means of engagement with the SSN that may be brought forward by the SSN during the course of the Application/EIS review process."  <u>Follow-up Comment June 10, 2015</u> DONE	Section 8 Consultation Activities for the Application Review Phase: Table 8-1, Proposed Application Review Consultation Activity and Timing, (page 15-16), Version 1.5 and 1.6	Agree with comment. A new row was added to the table stating: <i>As appropriate, KAM will consider and undertake other means of engagement with the SSN (as requested by the SSN) during the Application/EIS review period.</i>
9.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	17	Incorporate SSN concerns about governance, shared decision-making, and Aboriginal economies into the Consultation Plan and Application.  <u>Follow-up Comment November 24, 2015</u> We are heartened to see that KAM is finally acknowledging the importance of Aboriginal governance and Aboriginal economies, and finding a place to discuss these issues in the Application and including them in the FNCP. The related issue that SSN has repeatedly asked to be included is "shared-decision-making." Can you please clarify whether this issue falls within the "Governance Assessment" that you propose?  As these three issues (Aboriginal economies, governance, and shared-decision-making) are of great importance to the SSN, it would be helpful to have more detail about how you propose to consult SSN about these issues and the impact that the Project may have on them. We have shared with you some of the details that SSN would like to see in these assessment. The next logical step is for KGHM to provide a response to those details. If you require SSN to re-send our	Section 9.1, Version 1.7	Sentences will be added to the following excerpt on Consultation during the Application Review: <i>KAM as instructed by BC EAO, will endeavour to incorporate SSN feedback (written submissions, public comments and feedback received through consultation activities) into the Application/EIS. This may include information on Aboriginal interests (including asserted rights and title), proposed mitigation or other sections of the Application/EIS. Specifically the following information will be added to the Application:</i> <ul style="list-style-type: none"> <li>Aboriginal Economies VC;</li> <li>Governance Assessment (including Shared Decision-making); and</li> <li>The Trout Children Story Assessment.</li> </ul>

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			letters to KGHM on these issues, please let us know, otherwise we will wait for a further draft of your FNCP.		
10.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	18	<p>Clearly set out in the Consultation Plan and Application that SSN is to be consulted on the basis of its strong claim in Aboriginal Rights and Title and that consultation must be at the deep end of the spectrum.</p> <p><b><u>Follow-up Comment November 24, 2015</u></b></p> <p>We appreciate KAM's attempt to acknowledge the deep level of consultation required with the SSN. However, the proposed language is, with respect, wishy-washy and rather convoluted. We ask that you include a direct statement in the active voice. Here is an example:</p> <p style="padding-left: 40px;">The BC EAO has concluded that SSN has strong claims to Aboriginal rights and title in the Project Area. Given this assessment and the potential for adverse impacts as a result of the Project, KAM will consult with the SSN at the deep end of the consultation spectrum.</p>	Section 1, Page 1-2, Version 1.5 and 1.6, Version 1.7	<p>The following text was added to Section 5:</p> <p><i>The consultation approach outlined in this document is consistent with BC EAO's assessment of the required scope of the duty to consult the SSN. The BC EAO assessment is based on the assessment of strength of claims and potential for impact from the proposed Project. It concludes that SSN has a strong prima facie claim to Aboriginal rights and title in the area of the Project and that depth of consultation with the SSN should be at the deeper end of the Haida spectrum. Given this assessment, KAM will consult the SSN at the deep end of the consultation spectrum.</i></p>
11.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	19	<p>Acknowledge in both the Consultation Plan and Application that KAM must actually consult with SSN, that the consultation must be meaningful, define what meaningful consultation means.</p> <p><b><u>Follow-up Comment November 24, 2015</u></b></p> <p>Concerning SSN's comment that the FNCP acknowledge that KAM must actually consult with the SSN, that the consultation must be meaningful, and that "meaningful consultation" should be defined, KAM's response still does not fully capture the requirement that consultation be <i>meaningful</i>. First Nations that are consulted at the deep end of the consultation spectrum should expect opportunities to participate in decision-making processes. This is simply an information gathering exercise.</p> <p>The Crown (or its delegate, such as KAM) has a duty to ensure that a First Nation's representations to a decision-making process are "seriously considered, and, wherever possible, demonstrably integrated into the proposed plan of action." (See Halfway River First nation, para. 160 (BCCA) as cited by the Supreme Court of Canada in Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage), [2005] 3 S.C.R. 388, 2005 SCC 69 at paras. 63-64). It is the act of seriously considering and reflecting Aboriginal interests in the Project's plan that shows meaningful consultation. This is the commitment to meaningful consultation that SSN expects from KAM. What is required is that KAM hear</p>	Section 1, Page 1-2, Version 1.7	<p>A sentence will be added to state:</p> <p>Consultation with the SSN is a requirement <del>important</del> throughout all stages of the proposed Ajax Project (the Project) and is a key component of the federal and provincial Environmental Assessment (EA) processes. Consultation includes the provision of information as well as the identification of Aboriginal interests (including Aboriginal rights and title) that may be adversely affected by the Project. Consultation aims to identify Aboriginal perspectives and opinions about how the Project may affect those interests. Further, consultation will seek to identify mitigation and/or accommodation measures to avoid, reduce, or eliminate potential adverse effects on Aboriginal interests.</p> <p>In addition, the following bullet was added to the Consultation Objectives on Page 8.</p> <ul style="list-style-type: none"> <li>• Consider SSN's input, meaningfully address SSN's comments and concerns and facilitate SSN input into Project Planning; and</li> </ul> <p>In addition, the following text was added to Section 3:</p> <p><i>Given this assessment, KAM will consult the SSN at the deep end of the consultation spectrum. Meaningful consultation should include early engagement, facilitating involvement in the project through capacity funding, providing Project information in a timely manner, and identifying Aboriginal rights that may adversely be affected by the Project. Accommodation refers to avoiding, mitigating or otherwise addressing an impact of a project on Aboriginal Interests (BC EAO, 2013). Accommodation is determined through the consultation process and is used by the Crown to balance the potential effects to Aboriginal Interests with other societal interests. This may include avoidance, mitigation, offset and compensation measures carried out by the Proponent (BC EAO, 2013). KAM</i></p>

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			<p>SSN's input derived further to the consultation, meaningfully address SSN's concerns and comments and then integrate SSN into the process to ensure that SSN's voice is heard.</p> <p>What is the process that KAM is proposing to address and integrating SSN's concerns as opposed to simply sharing information with SSN and receiving input? Furthermore what methods will be used to adequately describe, detail and track this integration? Of particular interest is the description of how the SSN's decision package from the SSN Project Assessment process will be considered and integrated by KAM.</p> <p>Further, accommodation has not been adequately addressed at all by KAM. The requirement is consultation and accommodation. Please clarify what KAM's position is on accommodation i.e. what is the role the Crown has delegated to KAM with respect to accommodation.</p> <p>Specifically, is KAM prepared to make changes to its current location, design, layout and technology for the Project further to consultation with SSN to accommodate SSN's concerns? When will KAM begin to address proposed accommodation with respect to the Project?</p>		<p><i>remains committed to meaningful consultation with the SSN as well as the identification of agreeable accommodation measures such as avoidance, mitigation, offset and compensation measures.</i></p> <p>Section 6 describes the consultation activities in greater detail including a method for issue resolution. The activities now include activities to identify culturally appropriate mitigation and accommodation. KAM looks forward to discussing the proposed consultation activities with SSN.</p>
12.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	20	<p>Acknowledge in both the Consultation Plan and Application that the GA for the Project was significantly changed in November 2014.</p> <p><b>Follow-up Comment November 24, 2015</b></p> <p>KAM's response to SSN's comment that both the Application and the FNCP should acknowledge that the Project Significantly changed in November 2014 fails to understand the crux of SSN's concerns. KAM's response still characterizes the changes in the GA as being "in response to concerns" expressed by First Nations. SSN maintains that the change is not responsive to its concerns generally, and that presenting it as such is misleading.</p> <p>We have asked that you provide us with specific detail with respect to what exactly KAM changed in response to SSN's concerns. Please provide that information so that we may be in a better position to understand KAM's statements in that regard.</p> <p>As SSN stated previously, while it joined in some of the board public concerns about the former project, the new GA is not responsive to SSN concerns: it moves the problems around and raises a host of new concerns. KAM's response also minimizes the changes in the project that were made in November 2014. A fairer statement would acknowledge that KAM proposed significant</p>	Section 6.4, Version 1.7	<p>The following text was added to Section 1.1 and shared with SSN for comments and discussion:</p> <p><i>Based on feedback received during the consultation process from the public, Aboriginal Groups and stakeholders as well as the results of on-going studies, KAM changed the General Arrangement (GA) of the Project. These changes were announced on May 29, 2014, and KAM met with SSN to explain and discuss the proposed changes.</i></p> <p><i>Changes included:</i></p> <ul style="list-style-type: none"> <li>• <i>KAM relocated the TSF away from the Alkali Creek watershed (including Cherry Creek). The location and redesign to a conventional tailings storage facility reduces potential for dust by using wet tailings storage methods (responds to concerns raised by SSN about potential effects on the Cherry Creek watershed);</i></li> <li>• <i>redesigned the TSF from a dry stack to a conventional wet design storage facility that uses proven mining technology (responds to public and stakeholder concerns about health, dust and water-related concerns);</i></li> <li>• <i>relocated the North Mine Rock Storage Facility (NMRSF) and temporary ore stockpiles, the two closest site structures to Kamloops, 3.5 km southeast of their previous locations (responds to public and stakeholder concerns about visual health and dust-related concerns); and</i></li> <li>• <i>relocated the TSF to avoid Inks Lake (responds to SSN concerns raised about potential effects to Inks Lake).</i></li> </ul> <p><i>Operational aspects included:</i></p>

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			<p>modifications to the GA in November 2014 and list all the modifications to the project.</p> <p>The reason this is an issue for SSN is that consultation about the current GA's location, design, layout and technology only began in November 2014 after the new GA. SSN would be in a better position to consider KAM's changes if it knew what considerations KAM reviewed in making the changes. Further, the record should be clear about exactly what were the new project design aspects when the Project was changed. Specific details on the footprint for example have not been properly described, nor had the change in technology with respect to the tailings. In addition, the rationale behind the new layout has not been adequately explained.</p> <p>SSN is interested in a detailed description of the changes to the Project post November 2014. Pictures, figures, exact measurements and rationale would further SSN's understanding of the reason for the change and how the Project has changed from when KAM ha previously consulted with SSN. A comparison chart or table may be best suited to describe a summary of the changes with more detailed descriptions relating to each specific component.</p>		<ul style="list-style-type: none"> <li>• <i>The adjusted GA clusters mine activities to the south and east of the pit. Bringing these key facilities together reduces fuel consumption and potentially reduces emissions from equipment as well as generation of dust (responds to public concerns about air quality and health-related concerns).</i></li> <li>• <i>The compact location of the facilities minimizes potential for dust-related Project effects on traditionally used plants, Jacko Lake and grasslands. The more compact footprint reduces the potential for dust and noise-related effects on wildlife, and cultural values, and the potential for cumulative effects (responds to public concerns about air quality, health, wildlife, cultural values, and cumulative effects-related concerns).</i></li> </ul>
13.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	20	<p>Acknowledge that any consultation about the old footprint of the project is largely irrelevant to the current proposed project.</p> <p><b><u>Follow-up Comment November 24, 2015</u></b> See ID53 for additional comments from November 24, 2015 letter</p>	TBD	<p>This matter requires further discussion. It has been listed in the FNCP as an outstanding issue. It states in Section 6.4:</p> <p><i><b>Consultation and engagement activities prior to the new GA.</b> SSN does not believe that consultation or engagement activities conducted prior to the announcement of the new GA should be considered in the Application or the Plan. KAM disagrees with this.</i></p>
14.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	21	<p>Return to the Consultation Plan the commitment that "KAM will provide SSN opportunities to provide input on cultural related issues and all other applications for authorizations, approvals, or permits relating to exploration and development work for the proposed mine. KAM will forward SSN comments on applications for authorizations, approvals, permits, etc., to the appropriate regulatory agency."</p> <p><b><u>Follow-up Comment November 24, 2015</u></b></p>	TBD	<p>As per the comments received on December 2<sup>nd</sup>, KAM has removed all reference to the permitting phase. However, as per SSN's request, KAM has included the following wording in Section 4.2 and 6.1:</p> <p><i>The table does not include the consultation activities undertaken by KAM with respect to permitting, exploration and development work. While not part of the scope of the Plan, KAM remains committed to consult the SSN about these matters</i></p>

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			<p>KAM has provided a rationale for removing a commitment to provide SSN with opportunities to provide input on cultural related issues and other applications/ .authorizations from the FNCP. Specifically, that it is “not KAM’s responsibility” to do so. That said, the Crown has committed to do so. As you know, consultation is best done early and often. With respect, there is nothing preventing KAM from seeking comment on its applications for authorizations, approvals or permits relating to exploration and development work for the mine. However, even if KAM is not interested in developing a relationship with SSN with respect to its further work within SSN territory, SSN will make its comments known to the Crown. It seems to us that this is simply a missed opportunity for KAM.</p> <p>SSN clearly wants to be consulted in advance and often, and it would seem to be in KAM’s interest to learn of SSN concerns as early as possible. We ask again that you re-consider your position including this commitment in the FNCP.</p> <p><b><u>Follow-up Comment on December 2<sup>nd</sup>, 2015:</u></b></p> <p>The scope of the FNCP does not include permitting, nor does it include future exploration or development work (see page 7). All of these references should be removed from the FNCP. We have requested only the KGHM state its commitment to consult about these matters outside of the FNCP</p>		
15.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	22	<p>Confirm in the Consultation Plan that Chief to Chief meetings require the attendance of both SSN chiefs.</p> <p><b><u>Follow-up Comment November 24, 2015</u></b></p> <p>It is not clear why KAM is not able to confirm in the FNCP that Chief-to-Chief meetings require the attendance of both SSN Chiefs. We look forward to discussing this issue with you further. In recent meetings the SSN has also broached the subject of defining the “chief” for KGHM Ajax and note that SSN has requested that the “Chief” of the KGHM Ajax Project is the Management Board, which includes representatives from KGHM Polska Miedz, KGHM International and Abacus.</p> <p><b><u>Follow-up Comment December 2, 2015</u></b></p> <p>Your revised FNCP has not included our longstanding request to have Chief to Chief meetings include both SSN chiefs. At the meeting, we specifically asked that the FNCP state the requirement that both Chiefs attend such meetings</p>	Section 6.2 Consultation and Activities Conducted to Date, (Page 17-18) , Version 1.7 and 1.8	<p>Comment noted. This has been identified as an Outstanding Issue in the FNCP in Section 6.5 stating:</p> <p><i><b>Chief to Chief Meetings.</b> SSN would like it recorded that Chief to Chief meetings require both Chiefs to be present for it to be considered a Chief to Chief meeting. KAM and SSN are not in agreement on this issue but discussions are ongoing at the time of writing. SSN and KAM will elevate this issue to the Negotiation Meetings for resolution. This will follow the process outlined in Section 6-4 Dispute Resolution.</i></p>

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			(which you objected to) and that the KGHM Ajax Management Board attend these meetings with SSN as appropriate, not your Project Manager, at the same level as our Chiefs. You've advised that you will consider this. In our view, if our decision makers at the highest level are required to attend the meetings, KGHM should make the same commitment.		
16.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	23	Clarify the role of KAM's consultant, AMEC, in the Consultation Plan.  <b><u>Follow-up Comment November 24, 2015</u></b> Adequately addressed SSN's concerns	Section 1 (Introduction), Page 2, Version 1.7 and 1.8	A statement was added to Page 7: <i>KAM is responsible for all consultation activities with First Nations. Amec Foster Wheeler was hired by KAM to assist in the documentation of consultation activities with the public and First Nations. Amec Foster Wheeler also supports KAM in preparation of related materials for the EA Application.</i>
17.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	24	Provide, in a timely way, a mechanism for SSN to correct the consultation record going forward, and ensure that the record contains sufficient detail for SSN to do so.  <b><u>Follow-up Comment November 24, 2015</u></b> We appreciate that you are now prepared to work with the SSN to identify potential mechanisms for the SSN to correct the consultation record. It may be difficult to do so for items that are more than a year old, as that knowledge may be lost. However, we suggest that all records for the past year be furnished with more detail so that it is possible for SSN to comment on their accuracy. Further, going forward, we suggest that the SSN be offered an opportunity for monthly review of items added to the consultation record.	Section 8, Version 1.7 and 1.8	KAM will provide the SSN with a more robust and detailed consultation log for 2014/2015. In addition, the following commitment and text was added to Section 8-1 (Proposed Application Review Consultation Activity and Timing):  <b><i>Consultation Documentation.</i></b> To support SSN's involvement in the tracking of SSN consultation activities and the identification of SSN Issues, KAM proposes to: <ul style="list-style-type: none"> <li>• Distribute draft meeting minutes after Technical Meetings, Chief to Chief Meetings and Community Information Sessions. These will be shared as soon as possible to ensure that both parties still have an accurate memory of the event and agree on the discussions and issues tracked.</li> <li>• Distribute monthly Consultation Logs to SSN for input. The logs provided to SSN will include detailed information to facilitate SSN's review.</li> <li>• Distribute monthly Issues Tracking Tables to SSN to obtain input on the accuracy of KAM's understanding of SSN's concerns.</li> </ul> <b><i>Objectives</i></b> <ul style="list-style-type: none"> <li>• Support the SSN Project Assessment Process</li> <li>• Endeavour to involve SSN in assessing and verifying the results</li> <li>• Continue to engage the SSN</li> </ul> <b><i>Timing</i></b> Monthly during Technical Review

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18.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	25	<p>Include within the Consultation Plan and Section 15 of the Application the SSN's plans to provide technical information and evidence in response to the Application.</p> <p><b>Follow-up Comment November 24, 2015</b> Adequately addressed SSN's concerns</p>	TBD	<p>A new section, <b>Section 5.0 SSN Assessment Process</b> was added to the FNCP. It now states: <i>The SSN have developed a project assessment process that will run in parallel to the EA process providing an opportunity for a project assessment process that respects the SSN cultural perspectives, knowledge and history. The SSN Assessment Process will consider SSN Laws such as the Trout Children Story and X7ensq't. The SSN Project Assessment Process consists of the following steps:</i></p> <ul style="list-style-type: none"> <li>• <b>Information Gathering.</b> During the information gathering step, the SSN identify key people such as elders, knowledge holders, technical support and political persons to engage with. Knowledge and information may be gathered through consultation, and key person interviews considered in tandem with the Trout Children Story Sky World Contest &amp; Marriage, KGHM agreements, and consultation history and records.</li> <li>• <b>SSN Assessments.</b> The SSN are in the process of conducting assessments which includes review of the EA Application and preparation of assessments of Aboriginal Economies, Governance and the Trout Children Story. The Assessments team will use the Trout Children Story to assess KAM's consultation history and records. As part of this step, recommendations will be prepared for the written and oral record.</li> <li>• <b>Oral Hearing Assessment Results.</b> This step involves a gathering where oral evidence and knowledge will be heard and written reports will also be supplied. The SSN Decision table will also sit for a hearing.</li> <li>• <b>Deliberation SSN Decision Making Table.</b> This step is when the decision table will review information and internally deliberate on project decisions.</li> <li>• <b>SSN Project Decisions.</b> In this step, decisions will be made based on the assessments and hearings.</li> <li>• <b>SSN Decision Package.</b> This is when the SSN Decision Package will be prepared including individual assessments.</li> </ul> <p>Figure 5-1 illustrates how the SSN Project Assessment occurs in conjunction with the EA Process. As indicated, the Application Review phase occurs in parallel with the SSN Assessments, Oral Hearing, and SSN Project Decisions.</p>
19.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	26	<p>Ensure that the goals and objectives stated in the Consultation Plan commit KAM to considering and integrating SSN perspectives, opinions, and technical evidence.</p> <p><b>Follow-up Comment November 24, 2015</b> The proposed objective to be added to Section 6.1 of the FNCP is an improvement. However, in keeping with meaningful consultation, KAM should not only consider and integrate SSN perspectives and evidence into the <i>Application</i>, but ensure that Aboriginal interests are reflected in the <i>Project plan</i>. That is, the objective should not just be to state SSN's concerns in the</p>	Section 8, Page 19 Consultation Review Phase Goals and Objectives, Version 1.7 and 1.8	<p>The following objectives will be added to Section 4.1 (Consultation Objectives).</p> <ul style="list-style-type: none"> <li>• <i>Consider SSN's input, meaningfully address SSN's comments and concerns and facilitate SSN input into Project Planning.</i></li> </ul>

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			Application, but to actively integrate them reflect them into the Project plan and design.		
20.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	27	<p>Setting out a detailed plan for consultation going forward including Chief to chief meetings (how many, schedule, topics, feedback loops).</p> <p><b>Follow-up Comment November 24, 2015</b></p> <p>With respect to working with the SSN to identify a plan for consultation going forward (including the various elements that the SSN set out in its comments, summarized at lines 61 to 64), it would be helpful if you would set out a proposal and detailed schedule including:</p> <ul style="list-style-type: none"> <li>• A meeting schedule (for Chief-to-Chief meetings) and proposed topics;</li> <li>• Availability and scheduling windows (in support of SSN community engagement meetings) and proposed topics (including community information sessions); and</li> <li>• A reporting and comment mechanism for SSN to confirm or correct KAM's understanding of SSN concerns, perspectives, interests, etc. (potentially utilizing the issues tracking table)</li> </ul> <p>SSN could then provide further ideas on how to incorporate the SSN's project assessment process into the consultation plan and schedule that you propose, and provide feedback on dates, add to proposed topics, etc.</p> <p>SSN is in the process of negotiating the Environmental Assessment Collaborative Plan which sets out a process for consultation for the Project. SSN will be looking to KAM for their commitment to consult with the SSN in accordance with the plan and process. We are happy to review the current version of that Plan with you once we have confirmed this intention with the EAO.</p> <p><b>Follow up Comment December 2, 2015</b></p> <p>The FNCP does not provide a detailed schedule and plan for future consultation, meetings, etc. and you state that you want to develop this in conjunction with SSN. We would like to see what KGHM is proposing and not offload this to the SSN. Please provide us with a schedule and proposed plan for the meetings, i.e., the schedule for such meetings and a description of what will be addressed at each meeting as part of future consultation.</p>	Section 8 Consultation Activities for The Application Review Phase, , Version 1.7 and 1.8	<p>As per this comment, KAM is developing a detailed schedule to be shared with SSN as soon as possible. Table 8-1 (Proposed Application Review Consultation Activity and Timing) now includes a commitment to participate in bi-monthly Chief to Chief meetings:</p> <p><i>Chief to Chief meetings- KAM and SSN leadership (the Chief of TteS and the Chief of SIB) will continue to participate in these meetings.</i></p> <p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>• Identify opportunities for longer-term SSN participation in economic, employment, training, and other capacity building opportunities</li> <li>• Seek and consider SSN perspectives and opinions on adverse effects on Aboriginal interests</li> <li>• Continue to involve SSN in assessing the effectiveness of mitigation measures</li> <li>• Continue to invite SSN's input into culturally appropriate approaches to avoid, reduce, mitigate, or otherwise accommodate potential adverse effects to Aboriginal interests</li> </ul> <p><b>Timing</b></p> <p><i>Bi-monthly during Technical Review (i.e. until June 2016)</i></p> <p><b>Other related commitments added to Table 8-1 include:</b></p> <p><i>Provide site tours to SSN and representatives from the SSN Project Assessment Team to facilitate SSN's Assessment Process</i></p> <p><i>KAM proposes to host or participate in SSN Community Information Sessions such as community meetings, sessions with knowledge holders or elders, meetings with family groups (as identified by the SSN Project Assessment Process) technical workshops and/or open houses.</i></p> <p><i>At SSN's invitation, KAM will participate in the SSN Oral Hearing and as appropriate, make technical experts available.</i></p> <p><i>To support SSN's involvement in the tracking of SSN consultation activities and the identification of SSN Issues, KAM proposes to:</i></p> <ul style="list-style-type: none"> <li>• Distribute draft meeting minutes after Technical Meetings, Chief to Chief Meetings and Community Information Sessions. These will be shared as soon as possible to ensure that both parties still have an accurate memory of the event and agree on the discussions and issues tracked.</li> <li>• Distribute monthly Consultation Logs to SSN for input. The logs provided to SSN will include detailed information to facilitate SSN's review.</li> <li>• Distribute monthly Issues Tracking Tables to SSN to obtain input on the accuracy of KAM's understanding of SSN's concerns.</li> </ul> <p>As per this comment, KAM is developing a detailed schedule to be shared with SSN as soon as possible.</p>

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21.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	28	<p>Setting out a detailed plan for consultation going forward including Community meetings (how many, topics, facilitated or mediated to ensure that meaningful discussions take place, who will attend, schedule, feedback loops so that KAM can verify its understanding of SSN concerns or suggest further mitigation or accommodation).</p> <p><b><u>Follow-up Comment November 24, 2015</u></b></p> <p>With respect to working with the SSN to identify a plan for consultation going forward (including the various elements that the SSN set out in its comments, summarized at lines 61 to 64), it would be helpful if you would set out a proposal and detailed schedule including:</p> <ul style="list-style-type: none"> <li>• A meeting schedule (for Chief-to-Chief meetings) and proposed topics;</li> <li>• Availability and scheduling windows (in support of SSN community engagement meetings) and proposed topics (including community information sessions); and</li> <li>• A reporting and comment mechanism for SSN to confirm or correct KAM's understanding of SSN concerns, perspectives, interests, etc. (potentially utilizing the issues tracking table)</li> </ul> <p>SSN could then provide further ideas on how to incorporate the SSN's project assessment process into the consultation plan and schedule that you propose, and provide feedback on dates, add to proposed topics, etc.</p> <p>SSN is in the process of negotiating the Environmental Assessment Collaborative Plan which sets out a process for consultation for the Project. SSN will be looking to KAM for their commitment to consult with the SSN in accordance with the plan and process. We are happy to review the current version of that Plan with you once we have confirmed this intention with the EAO.</p> <p><b><u>Follow up Comment December 2, 2015</u></b></p> <p>The FNCP does not provide a detailed schedule and plan for future consultation, meetings, etc. and you state that you want to develop this in conjunction with SSN. We would like to see what KGHM is proposing and not offload this to the SSN. Please provide us with a schedule and proposed plan for the meetings, i.e., the schedule for such meetings and a description of what will be addressed at each meeting as part of future consultation.</p>	Section 8 Consultation Activities for The Application Review Phase, Version 1.7 and 1.8	See Response Above (ID 62). As per this comment, KAM is developing a detailed schedule to be shared with SSN as soon as possible. KAM made changes to the consultation activities in the Review phase to identify bi-monthly meetings for Chief to Chief meetings, consultation documentation mechanisms, and community meetings.
22.	SSN Comments on	29	Setting out a detailed plan for consultation going forward including SSN's project assessment (set out how KAM will consider and use).	TBD (suggest a new Section 8 titled SSN	See Response to ID 62. As per this comment, KAM is developing a detailed schedule to be shared with SSN as soon as possible. KAM made changes to the consultation activities in the

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	Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015		<p><b><u>Follow-up Comment November 24, 2015</u></b> See Follow up Comment ID 62</p> <p><b><u>Follow up Comment December 2, 2015</u></b> The FNCP does not provide a detailed schedule and plan for future consultation, meetings, etc. and you state that you want to develop this in conjunction with SSN. We would like to see what KGHM is proposing and not offload this to the SSN. Please provide us with a schedule and proposed plan for the meetings, i.e., the schedule for such meetings and a description of what will be addressed at each meeting as part of future consultation.</p>	Assessment Process), Version 1.7 and 1.8	Review phase to better describe planned consultation activities and timing including key components of the SSN Project Assessment Process.
23.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	30	<p>Setting out a detailed plan for consultation going forward including Feedback loops to ensure that SSN comments are meaningfully incorporated.</p> <p><b><u>Follow-up Comment November 24, 2015</u></b> See Follow up Comment ID 62</p>	Section 8, Version 1.7	See Response to ID 62. KAM made changes to the consultation activities in the Review phase to better describe planned consultation activities and feedback mechanisms. However, KAM would also like to propose the development of a detailed Consultation Schedule with the SSN.
24.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	31	<p>Ensuring that reporting on consultations, whether through communication records or issue tracking tables, is unbiased, balanced in what it includes, available for correction by the SSN (with adequate timeframes and resources to do so), and honestly sets out changes or modifications made to the project as a result of issues raised by SSN.</p> <p><b><u>Follow-up Comment November 24, 2015</u></b> We appreciate that you are now prepared to work with the SSN to identify potential mechanisms for the SSN to correct the consultation record. It may be difficult to do so for items that are more than a year old, as that knowledge may be lost. However, we suggest that all records for the past year be furnished with more detail so that it is possible for SSN to comment on their accuracy. Further, going forward, we suggest that the SSN be offered an opportunity for monthly review of items added to the consultation record.</p>	Section 8, Version 1.7 and 1.8	<p>Table 8-1 (Proposed Application Review Consultation Activity and Timing) now includes this commitment:</p> <p><i>To support SSN's involvement in the tracking of SSN consultation activities and the identification of SSN Issues, KAM proposes to:</i></p> <ul style="list-style-type: none"> <li>• <b>Consultation Documentation.</b> <i>To support SSN's involvement in the tracking of SSN consultation activities and the identification of SSN Issues, KAM proposes to:</i> <ul style="list-style-type: none"> <li><i>Distribute draft meeting minutes after Technical Meetings, Chief to Chief Meetings and Community Information Sessions. These will be shared as soon as possible to ensure that both parties still have an accurate memory of the event and agree on the discussions and issues tracked.</i></li> <li><i>Distribute monthly Consultation Logs to SSN for input. The logs provided to SSN will include detailed information to facilitate SSN's review.</i></li> <li><i>In addition, KAM will provide SSN with a detailed consultation log of all engagement and consultation activities that occurred previously.</i></li> </ul> </li> <li>• <b>Ongoing SSN Issues Tracking Table.</b> <i>Relying on the consultation documentation described above, KAM will continue to populate an SSN Project Issues Tracking Table that will be shared with the SSN monthly for</i></li> </ul>

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					<i>review. Feedback on the consultation log will be incorporated. This will help to ensure that both parties understood the issues and concerns raised. The table will include a 'Proponent Response' column to illustrate how KAM and SSN intend to work towards issue resolution and which party should respond to the issue. This will facilitate two-way information sharing between SSN and KAM. For outstanding issues, KAM and SSN will follow the process outlined in Section 6.4 Dispute Resolution.</i>
25.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	32.	The planned consultation activities for the Application Review Phase are lacking objectives and goals and a clearly defined path for achieving such goals	Table 6-2, Version 1.7	See Response to ID 62. KAM made a number of changes to the consultation activities in the Review phase to better describe planned consultation activities and associated objectives. SSN and KAM have worked collaboratively to further develop the consultation activities for the Application Review phase.
26.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	33.	SSN's Project Assessment Process has not been integrated into the consultation activities planned during the Application Review.	TBD	<p>Section 8 and Table 8-1 now incorporate reference to SSN's Project Assessment Process. Examples of additions made to this section include:</p> <p>The following objective was added to multiple activities in Section 8:</p> <ul style="list-style-type: none"> <li>• <i>Support and participate in the SSN Project Assessment Process</i></li> </ul> <p>The following activities were added:</p> <p><b>Community Information Sessions.</b> KAM proposes to host or participate in SSN Community Information Sessions such as community meetings, <b><i>sessions with knowledge holders or elders, meetings with family groups (as identified by the SSN Project Assessment Process)</i></b> technical workshops and/or open houses. Presentations will focus on topics requested by SSN (i.e., Goose Lake, Jacko Lake, the Hunting Blind, cumulative air emissions, the expanded CHS, biodiversity potential effects to water quality and the Peterson Creek watershed, potential effects to SSN Rights and Title). Should SSN require the presence of KAM's technical experts, advance notice will be required to avoid scheduling conflicts.</p> <p><b>Site Tours.</b> Provide site tours to SSN and representatives from the SSN <b><i>Project Assessment Team to facilitate SSN's Assessment Process</i></b>. Requests for site tours should provide reasonable notice and adhere to health and safety regulations. The site tours will likely include a tour of the Hunting Blind Complex, Peterson Creek and Goose Lake or other areas requested by SSN.</p> <p><b>Receive Preliminary Results of SSN Data Gathering.</b> SSN will provide KAM with the preliminary results of data gathering activities specifically with respect to governance, the Trout Children Story, and Aboriginal Economies. The input provided will inform the assessment KAM conducts on those topics.</p>

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					<p><b>Conduct an assessment on Aboriginal Economies, Governance and the Trout Children Story.</b> KAM and SSN will both conduct assessments on these topics. KAM will use the preliminary information supplied by SSN to develop an assessment for Day 60 of the Application Review. SSN will develop the assessments in accordance with its Project Assessment Process</p> <p><b>Participate in SSN Oral Hearing.</b> At SSN's invitation, KAM will participate in the SSN Oral Hearing and as appropriate, make technical experts available.</p> <p><b>Participate in the SSN Project Assessment Process.</b> As requested, KAM will participate in the SSN Project Assessment Process. KAM will make the appropriate representatives available for key milestones during the SSN Assessment Process. Should SSN require the presence of KAM's technical experts, advance notice will be required to avoid scheduling conflicts.</p> <p>Provide feedback on SSN Decision Package. KAM will provide comments and feedback on the SSN Decision Package received on Day 90 from SSN. Feedback will be provided by Day 120 of Technical Review.</p>
27.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	34.	<p>KAM has continued to ignore any comments SSN has about the former versus the new footprint of the project. These comments are significant because KAM is purporting to use the new GA for the project as an example of responding to concerns of First Nations (which SSN cannot stress strongly enough, is not the case: see discussion above). KAM is also purporting to use discussions it had with SSN about the former project proposal as examples of "consultation" on the current project proposal. Consultation about a project that has been abandoned is irrelevant. SSN deserves, and is entitled to, meaningful consultation about the current proposed project.</p> <p><b>Follow-up Comment November 24, 2015</b></p> <p>KAM has summarized SSN's concern that KAM is using consultation about the former GA in support of its Application for the new GA; KAM's response that it is required to provide a summary of these consultations as they relate to the proposed Project and some Project components remain unchanged in the new GA. SSN remain concerned that pages of "consultation" about a substantially different project should not be part of the consultation record. We object to KAM's reliance on any consultation with SSN with respect to substantially different project.</p> <p><b>Follow-up Comment December 2, 2015</b></p>	TBD	To be discussed further with SSN and potentially added to the list of outstanding concerns for the FNCP.

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			We also asked that you make a note in the FNCP that sets a point of demarcation for the new Project GA in 2014 so that it is clear what consultation happened with respect to the original Project versus the new Project.		
28.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	35.	<p>KAM has substantially rewritten the purpose of the consultation in the application review phase (p. 18), as seen below. The most concerning of the changes in goals is the removal of “provide results of baseline environmental studies to SSN for review and feedback”. There is also no indication that KAM will actually “consider” SNN perspectives and opinions in the new version.</p> <p><b><u>Follow-up Comment November 24, 2015</u></b> Adequately addressed SSN’s concerns.</p>	Section 8, Version 1.7 and 1.8	<p>See previous responses to Comment 26. The rationale for removing this particular objective is that the Application presents all environmental baseline studies and other studies required to support the effects assessments and proposed management plans. The EA process <u>requires</u> that a copy of the Application be provided to SSN during Screening and Application Review stages and therefore this is not an objective of the Consultation Plan. KAM suggests editing the second bullet on Page 19 to state:</p> <ul style="list-style-type: none"> <li>• <i>endeavour to involve SSN in assessing the Application and verifying the results of environmental studies (including the results of baseline studies) and effects assessments.</i></li> </ul>
29.	SSN Comments on Draft EAO Assessment of the First Nations Consultation Plan and Summary for the Proposed Ajax Mine Project October 7, 2015	36.	<p>[Application Review Consultation section] contains no details. For example, how many meetings are envisioned? On what topics? How will those meetings be facilitated or mediated to ensure that meaningful discussions take place? Who will attend? What is the timeline? What will happen after meetings? Are there additional feedback loops so that KAM can verify its understanding of SSN concerns or suggest further mitigation or accommodation? What if concerns cannot be addressed?</p> <p><b><u>Follow-up Comment November 24, 2015</u></b></p> <p>With respect to working with the SSN to identify a plan for consultation going forward (including the various elements that the SSN set out in its comments, summarized at lines 61 to 64), it would be helpful if you would set out a proposal and detailed schedule including:</p> <ul style="list-style-type: none"> <li>• A meeting schedule (for Chief-to-Chief meetings) and proposed topics;</li> <li>• Availability and scheduling windows (in support of SSN community engagement meetings) and proposed topics (including community information sessions); and</li> <li>• A reporting and comment mechanism for SSN to confirm or correct KAM’s understanding of SSN concerns, perspectives, interests, etc. (potentially utilizing the issues tracking table)</li> </ul> <p>SSN could then provide further ideas on how to incorporate the SSN’s project assessment process into the consultation plan and schedule that you propose, and provide feedback on dates, add to proposed topics, etc.</p>	Section 8, Version 1.7 and 1.8	<p>See Response to ID 62. KAM will prepare a detailed consultation schedule and share this with SSN as soon as possible.</p> <p>KAM made changes to the consultation activities in the Review phase to better describe planned consultation activities and timing.</p>

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			SSN is in the process of negotiating the Environmental Assessment Collaborative Plan which sets out a process for consultation for the Project. SSN will be looking to KAM for their commitment to consult with the SSN in accordance with the plan and process. We are happy to review the current version of that Plan with you once we have confirmed this intention with the EAO.		
30.	December 2 <sup>nd</sup> Letter from SSN to KAM	37.	The overriding issue with the plan, as we have explained time and time again, is that there is a lack of shared decision making with respect to the Project review. Under the FNCP, information about the Project is provided to SSN and our input is recorded, but it is neither responded to, nor addressed and integrated into the EA of the Project. Thus, SSN's participation is limited to commenting on the Project review, but SSN is not provided with the ability to make decisions about the Project with respect to potential impacts on SSN's Aboriginal rights and title. This is one of the reasons why SSN has decided to undertake its own review process, one in which SSN will make a decision about the Project in accordance with SSN Law.		Text was added to Section 3 to better describe accommodation. However, KAM would like to discuss this matter with SSN further and revise the text to better reflect KAM's commitments.
31.	December 2 <sup>nd</sup> Letter from SSN to KAM	38	We also confirm your advice yesterday that this FNCP must, according to KGHM, be completed by January 4, 2015. SSN's position with respect to that	Version 1.8	Comment noted. KAM is committed to integrating feedback and comments from SSN and looks forward to further meetings on this issue.

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			<p>deadline and the FNCP itself is that this is yet another example of a too short timeline where SSN is expected to comment on 66 pages of a revised FNCP and 44 pages of a Tracking Table in a couple of days and provide meaningful feedback to KGHM. SSN has invested significant time and resources throughout the process towards a FNCP and our concerns remain to be addressed and integrated into the FNCP. At this late date and after the EA is already well underway, we are advised of a Jan. 4, 2015 deadline. This level of engagement is not commensurate with the duty to consult at the deep end of the Haida spectrum.</p>		
32.	December 2 <sup>nd</sup> Letter from SSN to KAM	39.	<p>In addition, the Project description in the FNCP does not match the Section 11 Order Project description dated January 11, 2012, nor does it match the Project description in the AIRs that were approved July 23, 2014. Specifically, you have added: <b>“A natural gas pipeline”</b>. This is not included in the scope of the FNCP and was not raised by us at the meeting because it was initially overlooked. <b>In fairness, these kind of substantive changes need to be specifically brought to SSN’s attention so that they are not overlooked. Not to do so creates a level of distrust.</b> It is not appropriate to add to the Project description, and thus the scope of consultation under the FNCP, without specifically identifying such substantive changes to SSN. We do not agree with the pipeline being added to the scope of the FNCP. Please ensure that the Project description in the FNCP matches the current Project description before the EAO. SSN will not be consulting with KGHM about the pipeline (or anything else you added) as part of this process.</p>	Section 1.1, Version 1.8	<p>Comment noted. As per direction from BC EAO and based on the content of the section 13 Order issued July 2015, the updated Project Overview was included. KAM looks forward to further discussion on this matter.</p>
33.	December 2 <sup>nd</sup> Letter from SSN to KAM	40.	<p>Although KGHM has taken SSN’s suggestion and put in a better description of the level of consultation required (and specifically stated it is at the deep level of the Haida spectrum, as we requested), with respect to “meaningful consultation” KGHM has only added that it will “meaningful address SSN’s comments and concerns and facilitate SSN input into Project Planning” (see page 5, under “consultation objectives”).</p> <p>As stated at the meeting, the FNCP must include a process where SSN’s comments are identified; responded to by KGHM; addressed and integrated into the EA process; and then, where there is a disagreement about KGHM’s response and SSN’s outstanding concern, the disagreement should be recorded and referred to the G2G process. After discussion at the G2G level, the concern (and any direction from the G2G process) should return for discussion within the context of the FNCP and be recorded in a way that is easy to track this process.</p>	Section 1 through to 6.5, Version 1.8	<p>KAM included revised text throughout the document including new text with respect to accommodation (see Comment ID 71). In addition, KAM added new consultation activities to Table 6-1 to identify how ongoing issues with SSN will be tracked.</p> <p>Section 6.5 proposes an Issue Tracking and Consultation Process for discussion with SSN including a flowchart diagram.</p> <p><i>SSN and KAM have agreed to develop and maintain an Issues Tracking Table that will also document how matters are resolved. The Issues Tracking Table will maintain a record of issues that are outstanding and issues that have been resolved. It will also provide information for the 120 Day Consultation Report requested by BC EAO. The Issues Tracking Tables will undergo periodic reviews by all parties and will be informed by SSN evaluations. The Issue Tracking and Consultation Process will be conducted in parallel to the Government to Government Issue Tracking Process.</i></p> <p><i>The process, as illustrated in the flowchart below, will be followed to identify and resolve issues between SSN and KAM. The parties have agreed that where there is a disagreement that persists between the parties such that it has been elevated to the most senior representatives of the parties and</i></p>

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			It is not enough to say in the FNCP that SSN's concerns will only be recorded.		<i>remains unresolved, the Crown may be asked to assist in exploring solutions to these issues. At all times during the process illustrated below, all parties will be kept apprised of the solutions being explored.</i>
34.	December 2 <sup>nd</sup> Letter from SSN to KAM	41.	<p>As requested by letter of November 24, 2015, the FNCP, in particular section 4.4 and the Table 4-2, does not substantively describe SSN's key issues and comments raised to date.</p> <p>We have referred you to SSN's screening EAO comments that go into detail on both of these issues and we require SSN's substantive rights and title comments identified in the FNCP. Section 4-4 must be revised to identify specific aboriginal rights and title issues that should be addressed. We also refer you to the Title Claim filed against KGHM and others for specific rights and title matters that should be added as "Key issues and concerns raised by KGHM to date".</p> <p>We have further referred you to the Trout Children Story and the direction from CEAA to KGHM, which should also be identified in 4-4.</p> <p>During our call, we advised you that Pipsell should be identified as a "cultural keystone site" and not lumped in under the category of Heritage Resources where only some of the concerns are described or limited to Ceremonial or Cultural issues.</p> <p>Finally, Aboriginal Title issues are entirely missing and not addressed in the FNCP (other than what is described as ongoing "technical studies" as part of the "Status of Resolution") and must be included. Title issues raised by SSN are not adequately described nor responded to and a process for resolution must be developed by KGHM for this.</p>	Section 4 and Table 4-2, Version 1.8	<p>Table 4-2 was edited to include the following key issues under Aboriginal rights and title:</p> <ul style="list-style-type: none"> <li>• Potential effects on Aboriginal Economies</li> <li>• Potential effects on Governance and the Trout Children Story</li> <li>• Shared Decision Making</li> </ul> <p>A Proponent Response was added for each of these issues as well as a description of the Status of Resolution.</p>
35.	December 2 <sup>nd</sup> Letter from SSN to KAM	42.	With respect to KGHM's mandate for accommodation, you say at page 4 that "KAM is responsible for all consultation activities with First Nations". With respect, we disagree. The Crown can only delegate procedural aspects of consultation, therefore, this statement is not accurate.	Section 3, Version 1.8	<p>This sentence will be rephrased to state:</p> <p><i>For those procedural aspects of consultation that have been delegated by the Crown, KAM is and will continue to be responsible for these activities. Amec Foster Wheeler was hired by KAM to assist in the documentation of consultation activities with the public and First Nations. Amec Foster Wheeler also supports KAM in preparation of related materials for the EA Application.</i></p>
36.	December 2 <sup>nd</sup> Letter from SSN to KAM	43.	<p>Further, we have repeatedly asked about KGHM's mandate for accommodation. Is it the case that KGHM is only taking on procedural consultation and not accommodation? If so, please confirm that is that case.</p> <p>We have requested that as part of KGHM's accommodation mandate, that KGHM consider changes to the design, layout and technology for the Project in response to SSN concerns. We wish to see that commitment reflect on the part of KGHM reflected in the FNCP.</p>	Section 3, Version 1.8	Text was added to Section 3 to better describe accommodation. However, KAM would like to discuss this matter with SSN further and revise the text to better reflect KAM's commitments.

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37.	December 2 <sup>nd</sup> Letter from SSN to KAM	44.	At page 26 of the FNCP, you have stated that KGHM made changes to the original footprint general arrangement (“GA”) in response to SSN concerns. We have asked you to specifically identify what changes you say KGHM made in response to SSN in the FNCP and that we be afforded the opportunity to comment on that.	Section 1.1, Version 1.8	<p>The following text was added to Section 1.1 and shared with SSN for comments and discussion:</p> <p><i>Changes to the General Arrangement</i></p> <p><i>During consultation with various interested parties including the public Aboriginal Groups and stakeholders, concerns were expressed about the location of the storage facilities (namely proximity) and the potential for impacts related to health, dust, water sources and visual health. The SSN raised specific concerns regarding potential effects on the Cherry Creek watershed and Inks Lake. KAM considered the feedback provided from all interested parties and the results of on-going studies undertaken and changed the General Arrangement (GA) of the Project. These changes were announced on May 29, 2014. KAM met with SSN to notify them and explain the proposed changes prior to notifying the public.</i></p> <p><i>Changes included:</i></p> <ul style="list-style-type: none"> <li>• <i>Relocation of the TSF away from the Alkali Creek watershed (which includes Cherry Creek) and Inks Lake;</i></li> <li>• <i>Redesign of the TSF from a dry stack to a conventional wet design storage facility that use proven mining technology; and</i></li> <li>• <i>Relocation of the North Mine Rock Storage Facility (NMRSF) and temporary ore stockpiles approximately 3.5 km southeast of their previously intended locations.</i></li> </ul> <p><i>The changes were implemented to avoid or mitigate:</i></p> <ul style="list-style-type: none"> <li>• <i>Potential impacts to the Alkali Creek watershed (which includes Cherry Creek) and Inks Lake were reduced (effects on the Cherry Creek watershed and Inks Lake were concerns raised by SSN);</i></li> <li>• <i>Potential impacts arising from dust;</i></li> <li>• <i>Potential impacts related to health, and water sources; and</i></li> <li>• <i>Potential impacts related to visual health.</i></li> </ul> <p><i>As a result of the relocation and redesign changes, the following operational changes resulted further reducing potential impacts:</i></p> <ul style="list-style-type: none"> <li>• <i>The adjusted GA clusters mine activities to the south and east of the pit. Bringing these key facilities together reduces fuel consumption and potentially reduces emissions from equipment as well as generation of dust (responds to public concerns about air quality and health-related concerns); and</i></li> <li>• <i>The compact location of the facilities minimizes potential for dust-related Project effects on traditionally used plants, Jacko Lake and grasslands. The more compact footprint reduces the potential for dust and noise-related effects on wildlife, and cultural values, and the potential for cumulative effects (responds to public concerns about air quality, health, wildlife, cultural values, and cumulative effects-related concerns).</i></li> </ul>
38.	December 2 <sup>nd</sup> Letter from SSN to KAM	45.	We do not believe that the description is accurate in Table 4-1 being “consultation activities taken to date”. You have agreed to provide us with your	Section 4, Version 1.8	KAM will share a detailed consultation log with SSN.

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			back-up information on these activities, in particular the 50 meetings with SSN. We look forward to receiving that.		
39.	December 2 <sup>nd</sup> Letter from SSN to KAM	46.	Going forward, we have asked that SSN be regularly provided (monthly, we suggest) with your records of meetings minutes and/or records of meetings with SSN, including what was discussed so that we may be in a position to comment and record any disagreement with your version of what transpired at a meeting.	Version 1.8	KAM has updated the consultation activities in Table 6-2 to reflect this request. Consultation documentation and Issues Tracking Tables will be shared monthly with SSN (while meeting minutes will be shared more frequently).
40.	December 2 <sup>nd</sup> Letter from SSN to KAM	47.	Regarding section 4.3 Re “Agreements” – KAM states that it has made “significant efforts to provide capacity funding to the SSN”. SSN does not agree and would like to see this removed from the FNCP. In addition, section 4.3 is not accurate as follows: <ul style="list-style-type: none"> <li>a reference to the number of drafts of the Capacity Agreement should not be included in the FNCP as those discussions were on a without prejudice basis and the majority of which were further to the original Project</li> <li>It is not accurate to say the Capacity Agreement will expire in a year, it has already expired</li> <li>The addition points you say KGHM committed to “Provide to SSN” are not accurate and not included in the Capacity Agreement.</li> <li>Also, the points you identify at page 13 are for the Pre-Application Period, not the entire EA and have now expired.</li> </ul>	Section 4.3, Version 1.8	The text in Section 4.3 has been edited to reflect these requests: <i>In addition to the activities outlined in <b>Table 4.1</b>, KAM and SSN have made significant efforts to develop a mutually agreeable capacity funding and environmental assessment funding agreement. KAM has provided significant funding to the SSN as part of the Agreement. The objectives of the funding were to facilitate SSN’s involvement in the Project in a way that is meaningful including support for the identification of potential impacts to asserted Aboriginal interests and the development of mitigation and/or accommodation measures.</i> <i>Since 2012, a number of draft consultation agreements have been exchanged with SSN, including multiple drafts of a Capacity Funding Agreement (CFA). This on-going effort resulted in SSN and KAM signing a CFA on October 17, 2014. In the signed CFA, SSN and KAM agreed to work together to:</i> <ul style="list-style-type: none"> <li>Identify and assess potential Project effects on SSN health and socio-economic conditions;</li> <li>Work towards developing a revised First Nations Consultation Plan;</li> <li>Host SSN community information meetings and workshops to share Project related information, respond to questions, issues and concerns, and include feedback in design of the proposed Ajax Project.</li> </ul> <i>The CFA covered the Pre-Application period up until October 16, 2015.</i>
41.	December 2 <sup>nd</sup> Letter from SSN to KAM	48.	Regarding Section 5 – This section adds the SSN Assessment Process. We will provided you with an outline of the process currently being negotiated with the EAO as part of the EA Collaborative Plan	Section 5, Version 1.8	Once provided, this will be incorporated into the document.
42.	December 2 <sup>nd</sup> Letter from SSN to KAM	49.	We have asked that you change “support” for the SSN Assessment Process to “fully participate in” the SSN Assessment Process throughout including responding to Information Requests form the SSN Review Panel in a timely way.	Section 5 and throughout FNCP, Version 1.8	The FNCP was revised throughout the document to state: <i>Support and participate in the SSN Assessment Process</i> The following wording was added to Section 5: <i>KAM will participate in the SSN Assessment Process by considering and responding to SSN’s perspectives, opinions and technical information including that which may result from the SSN Assessment Process. KAM proposes the following ways to participate in the SSN Assessment Process:</i> <ul style="list-style-type: none"> <li>During the Information Gathering and Preparation Phase, the SSN will provide KAM with the preliminary results of data gathering activities specifically with respect to governance, the Trout Children Story, and</li> </ul>

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					<p><i>Aboriginal Economies. KAM will use the preliminary information supplied by SSN to develop an assessment for Day 60 of the Application Review.</i></p> <ul style="list-style-type: none"> <li>• <i>Throughout the SSN Assessment Process, KAM will make the appropriate representatives available for key milestones. Should SSN require the presence of KAM's technical experts, advance notice will be required to avoid scheduling conflicts.</i></li> <li>• <i>As requested, KAM will participate in SSN Community Sessions such as meetings with family groups (as identified by the SSN Project Assessment Process), community meetings, sessions with knowledge holders or elders, or technical workshops. These activities will be led by the SSN Engagement Team whom will be responsible for identifying appropriate opportunities for KAM's participation.</i></li> <li>• <i>During the Oral Hearing Phase, KAM will (at SSN's invitation), participate in the Oral Hearing and as appropriate, make technical experts available.</i></li> <li>• <i>During the SSN Project Decisions Phase, KAM will review and provide comments and feedback on the SSN Decision Package.</i></li> </ul>
43.	December 2 <sup>nd</sup> Letter from SSN to KAM	50.	Regarding Table 6-1 – Proposed Application Review Consultation Activity and Timing, you have listed lots of activities, but again, we require need a schedule and a plan for getting things done.	Section 6, Version 1.8	As per the request, KAM developed a detailed consultation schedule that was shared with SSN on December 9, 2015. At the time of writing, input had not yet been received.
44.	December 2 <sup>nd</sup> Letter from SSN to KAM	51.	We also mentioned that you may wish to add the ability for KGHM to review the SSN Review Panel Decision Package to the EAO/CEAA.	Section 6, Version 1.8	The following text was added to Section 6 for review and discussion with SSN: <b><i>Provide feedback on SSN Decision Package.</i></b> KAM will provide comments and feedback on the SSN Decision Package received on Day 90 from SSN. Feedback will be provided by Day 120 of Technical Review.
45.	January 6, 2016	52.	SSN objects to the following phrase being included: “KAM has and will continue to consult with SSN at the deep end of the spectrum”. SSN does not agree that KAM has in the past engaged in deep consultation with SSN. It is acceptable for KAM to state that it plans to engage in consultation at the deep end of the spectrum, but it is not acceptable to affirmatively state that KAM has engaged in deep consultation in the past. Further, the FNCP lacks substance as to what measures KAM is prepared to take to address specific concerns of SSN. The specific mandate of KAM to accommodate SSN must be set out.	Section 3 , Version 1.9	Comment noted. Section 6.5 was edited to state: <i>Where appropriate, the Table will also identify mitigation measures which may include accommodation and/or Project design changes that KAM commits to implement.</i>
46.	January 6, 2016	53.	<b>KAM's Principles for Sustainable Relationships with First Nations.</b> A key principle which has not been articulated, and which is fundamental to any relationship with SSN is a recognition by KAM of SSN's Aboriginal Title to the project area, of SSN as the decision maker with respect to resource development in its Title claim area, and of the need to obtain from SSN its free, prior and informed consent to any resource development activities in its Title claim area.	Section 4.1.1 , Version 1.9	Comment noted. KAM has acknowledged SSN's strong prima facie claim to title in Section 5: <i>The consultation approach outlined in this document is consistent with BC EAO's assessment of the required scope of the duty to consult the SSN. The BC EAO assessment is based on the assessment of strength of claims and potential for impact from the proposed Project. It concludes that SSN has a strong prima facie claim to Aboriginal rights and title in the area of the Project and that depth of consultation with the SSN should be at the deeper end of the Haida spectrum. Given this assessment, KAM will consult the SSN at the deep end of the consultation spectrum.</i>

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47.	January 6, 2016	54.	<b>Pre-application consultation and engagement activities.</b> Given the very short period of time available to SSN to review the changes made to this table, SSN has been unable to provide substantive comments and relies on its previous correspondence.	Table 4-1, Section 4 , Version 1.9	Comment noted. Changes requested in earlier correspondence about Table 4-1 have been made.
48.	January 6, 2016	55.	<b>Key Issues and Concerns Raised by SSN to Date.</b> This table setting out the interests and concerns of SSN is incomplete. We had previously referred you to the Title Claim as well as the screening comments on the Application and requested that you describe all of SSN's concerns and respond to them. It is not sufficient for KAM to only record some of SSN's concerns. Further, we have not agreed that a full and complete assessment of issues such as effects on Aboriginal economies or Governance and the Trout Children Story will be completed during the Technical Review phase. SSN has agreed that it will complete as much as possible, but that funding and timing constraints are unlikely to allow for a full and complete assessment. SSN reiterates that meaningful consultation and accommodation of the impacts of this Project on the rights and title of SSN may require a delay in the decision or the process, and this must be recognized by KAM. SSN requires KAM respect the requirement to obtain the free, prior and informed consent of SSN to all aspects of this Project.	Table 4-2, Section 4 , Version 1.9	Table 4-2 represents issues raised by the SSN during the Pre-Application consultation activities. KAM is developing a comprehensive SSN Issues Tracking Table that will include all issues raised by the SSN from Pre-Application to the Technical Review periods. It will include concerns raised about the Project, consultation, Aboriginal interests, the AIR, and the technical studies presented in the EA Application.
49.	January 6, 2016	56.	<b>SSN Assessment process</b> – SSN requires KAM to identify in the FNCP report the activities undertaken by it through the SSN Assessment process, and to identify any changes or alterations to its application which resulted from KAM's participation in the SSN Assessment process.	Section 5 , Version 1.9	The SSN has notified KAM that its participation in the SSN Assessment Process will be through invitation only. As per this understanding, KAM added the following activities to Section 6, Table 6-1 as per SSN's requests during meetings on November 18, 2015 and December 9, 2015: <ul style="list-style-type: none"> <li>• <i>Site Tours.</i> Provide guided site tours of the Project to SSN and representatives from the SSN Project Assessment Team to facilitate SSN's Assessment Process. Requests for guided site tours of the Project should provide reasonable notice and adhere to health and safety regulations. The guided site tours will likely include a tour of the Hunting Blind Complex, Peterson Creek and Goose Lake or other areas requested by SSN.</li> <li>• <i>Conduct an assessment on Aboriginal Economies, Governance and the Trout Children Story.</i> KAM and SSN will both conduct assessments on these topics. KAM will use the preliminary information supplied by SSN to develop an assessment for Day 60 of the Application Review. SSN will develop the assessments in accordance with its Project Assessment Process</li> <li>• <i>Community Sessions.</i> At SSN's request, KAM will participate in SSN Community Sessions such as meetings with family groups (as identified by the SSN Project Assessment Process), community meetings, sessions with knowledge holders or elders, or technical workshops. As per SSN's request, these activities will be led by the SSN Engagement Team whom will be responsible for identifying appropriate opportunities for</li> </ul>

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					<p>KAM's participation. Should SSN require the presence of KAM's technical experts, advance notice will be required to avoid scheduling conflicts.</p> <ul style="list-style-type: none"> <li>• Participate in SSN Oral Hearing. At SSN's invitation, KAM will participate in the SSN Oral Hearing and as appropriate, make technical experts available.</li> <li>• Participate in the SSN Project Assessment Process. As requested, KAM will participate in the SSN Project Assessment Process. KAM will make the appropriate representatives available for key milestones during the SSN Assessment Process. Should SSN require the presence of KAM's technical experts, advance notice will be required to avoid scheduling conflicts.</li> </ul> <p>KAM, at SSN's request, also created a preliminary schedule of consultation activities linked to the SSN Assessment Process for review and comment by SSN. Input on the schedule has not yet been received. Until KAM has participated in the SSN Assessment Process, it will be unable to determine "any changes or alterations to its application which resulted from KAM's participation in the SSN Assessment process". However, KAM remains committed to meaningful consultation with the SSN during the Technical Review period and will use the results of this participation to: Continue discussions on measures to avoid, mitigate or accommodate potential adverse effects on Aboriginal interests; Work with SSN on resolution of their issues or concerns and to the extent appropriate, identification of measures to avoid, mitigate or otherwise accommodate potential adverse effects on the Aboriginal interests; Collect, respond to, and report on SSN comments received throughout the EA process. In addition, KAM is developing assessments on the Trout Children Story, Governance and Aboriginal Economies as addenda to the Application.</p>
50.	January 6, 2016	57.	<b>Proposed Consultation Activities Schedule</b> , and the timelines set out in the FNCP are not agreed to by SSN and purport to commit SSN to providing information and reviewing materials by certain dates which SSN has not agreed to do and would have great difficulty in meeting. For example, SSN cannot agree to the dates provided in the FNCP for the provision of data and information from SSN (for example Day 30 data gathering) set out in Table 6-1.	Table 6-1, Version 1.9	The activities and timing assigned to the SSN include an asterisk specifically noting that "The SSN identified concerns with the timing of these activities ". The activities identified for Day 30 (SSN to provide information for consideration in the assessment) is consistent with the approach outlined in the Aboriginal Economies VC and Governance Scoping documents provided to BC EAO and SSN in September 2015.
51.	January 6, 2016	58.	Participation in the SSN Oral Hearings should be identified with the actual dates which have been set at May 2-6, 2016.	Table 6-1, Version 1.9	Table 6-1 was updated to identify this date, stating: <i>As per SSN Assessment Process on May 2-6, 2016</i>
52.	January 6, 2016	59.	Delivery of the draft Mine Development/Project Agreement to SSN must be included with a delivery date of the beginning of April. Presentation of this draft agreement to the SSN hearing panel during the SSN Oral Hearings should be set out.	Table 6-1, Version 1.9	KAM has agreed to the delivery of the draft Mine Development/Project Agreement in the Capacity Funding Agreement with SSN signed in December, 2015.
53.	January 6, 2016	60.	We once again reiterate our request for KGHM's "back-up records" of the 50 meetings it says it has had with SSN.	N/A	As per discussions with SSN, KAM has committed to provide this detailed information to the SSN in January 2016.

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54.	January 6, 2016	61.	The tracking table should identify concerns, provide KGHM's response to them, show how the concerns are addressed and integrated in the review of the Project and consultation and accommodation with respect to infringements. That process is not described adequately in this section.	Section 6.5, Version 1.9	The following wording was added to Section 6.5: <i>The Issues Tracking Table will identify issues or concerns, provide KAM's response to the issue, describe efforts to address the concerns and, as appropriate, integrate the concern or issue into the review of the Project.</i>
55.	January 6, 2016	62.	Reference should also be made to the G2G Framework agreement (which has yet to be finalized)	Section 6.4, Version 1.9	Given the G2G Framework has not yet been finalized, this wording was not added to the FNCP.
56.	January 6, 2016	63.	The final tracking table should be included in the FN's Consultation Report (a draft of which of course must be reviewed by SSN). Where there continue to be issued between SSN and KGHM that remain outstanding, those issues should be noted in detail. For example, the tracking table should include all issues outstanding from the screening review, including the SSN 360 Report, issues outstanding from the Pre-Application Review, and issues outstanding from the application review process.	Section 6.4, Version 1.9	KAM will include the SSN Tracking Table in the First Nations Consultation Report.